THE LIE OF THE CLEAN KILL

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Idaho, the Firing Squad, and the Allure of the Bullet

JEFF HOOD

COMPLICIT PRESS

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Published by Complicit Press.

First edition, 2026.

Printed in the United States of America.

For Corinna Barrett Lain

who told the truth about the killing state
and inspired me to as well

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Acknowledgements

* * *

Nobody does this work alone. Nobody survives it alone either. What follows is my attempt to name the people who kept me standing while I wrote, and the people who keep me standing the rest of the time.

To my wife, Dr. Emily Hood: You have loved our family through every warrant, every sleepless night, every flight out to a state preparing to kill someone I had come to love. You let me go each time without any promise about who would come home. I have never been able to find language to describe the immensity of my love for you. Suffice to say, you are the backbone of everything I do.

To Jeff, Phillip, Quinley, Madeleine, and Lucas: You are being raised by a man who keeps vanishing into prisons and returning with portraits of the dead. You asked the hard questions out loud, and you never once let me answer them as anybody but your dad. When my confidence fails that this country will someday stop killing people, I look at the five of you and find it again. You are the reason I keep going.

To Kat Bodrie, my editor: I brought you grief and fury in roughly equal measure and you helped me build an argument out of it. There is not a paragraph here you did not sharpen. Whatever reads clearly, reads that way because of you.

To Ruth Longenecker, my publicist: You have worked to make sure these pages reach readers rather than a warehouse. Thank you for believing the argument was worth carrying into the open.

To Bishop James St. George, who has stood behind this ministry since the beginning: You blessed a calling that must have looked strange from the outside, and you have never once wavered since. Your pastoral care is the reason I can walk into those rooms and walk back out still myself. I do not think I would have lasted without you.

To the thirteen men I have walked with into the chamber — Scott Eizember, Arthur Brown, Anthony Sanchez, Casey McWhorter, Kenneth Smith, Michael Smith, David Hosier, Emmanuel Littlejohn, Steven Nelson, Anthony Wainwright, Anthony Boyd, Dusty Spencer, and Will Silvia: You let me stand beside you at the end, and you asked me to say afterward what I had seen. That request is the reason this book exists. I have kept it as faithfully as I know how, and I am not finished keeping it.

To the eight people on Idaho's death row: While these pages were being written, you were waiting. Whatever comes next will land on eight particular human beings, not on a policy category. I have tried never to lose sight of that.

To Gary Gilmore, John Albert Taylor, Ronnie Lee Gardner, Brad Sigmon, Mikal Mahdi, and Stephen Corey Bryant, the six men this country has shot since 1977: I did not know any of you, and I stood in the room for none of your deaths. Nearly everything argued in these pages is built out of what was done to your bodies and what was recorded afterward. I have tried to write about you as men and not as evidence.

To the journalists and lawyers who pried loose autopsy reports the state had no intention of releasing: Most of what can be known about these deaths is known because you refused to let it go unrecorded. The evidence in this book is largely your doing.

To Krista Shaw, my operations director: You hold the machinery together so that I can do what I do. Very little would function without you. Thank you for your constant friendship and unflinching support.

To Michelle Lott, who directs my work in Florida, in the state that now executes more people than any other: You took on the hardest ground in the country and do not flinch.

To Ashley Randolph, my family liaison: You keep making sure that our connections are not just temporary.

To Michael Orr, my friend and a member of the Board of the Execution Intervention Project: You have given this ministry your judgment and your time, and you have given both without ever making me ask twice. Thank you for helping steer it well.

To Bishop Durrell Watkins, who serves on the Board of the Execution Intervention Project: You bring a pastor's instincts to the governing table, which is exactly what an organization like this one needs. Thank you for your counsel and your steadiness.

To Wendy Ramage, my dear friend and dean of the Institute for Death Row Correspondence: You have built something that keeps people connected to the world outside when the world outside would rather forget them. Letters matter more than anyone on the outside understands.

To Rob Dunham, friend and teacher: Much of how I understand this system, I learned from you. Your rigor is a standard I keep trying to meet.

To Randy Gardner: Your brother Ronnie appears in these pages, shot by the state of Utah. Writing about him while knowing you has kept me honest about what a firing squad actually costs a family. Thank you for your friendship and for refusing to let Ronnie become a footnote.

To Sister Helen Prejean: You made this vocation visible long before I entered it. The path I walk was cleared by you.

To Bishop Robert Griffin, for your prayers and your presence in Florida: Thank you.

To Esther Brown, whose advocacy and friendship have carried this work through years when it might have stopped: Thank you for your stubbornness. I have known few greater friends than you.

To Greg Gardner, my attorney and my friend: You have fought for this ministry in rooms I could not enter and against opponents I could not have faced by myself.

To Alli Sullivan, who chairs the Board of the Execution Intervention Project and who is one of my dearest friends: You have carried the responsibility of leading this ministry and the harder, quieter work of being someone I can tell the truth to when I come home from these rooms. Both matter enormously. Thank you for the years you have given to this.

To Don Fulton, who has been my friend for a very long time: You knew me before any of this, and you have stayed through all of it. Company like that is not a small thing when the work is what it is.

To Grace Hanna, my friend and confidant: We go about this work differently, and we have never pretended otherwise. That difference is exactly what makes your counsel consistently worth having. Thank you.

To Stephanie Anderson, my friend: You have given me an ear through a great many hours that were hard to sit inside.

To Abraham Bonowitz: You have been organizing against this machine longer than most of us have been paying attention, and the scaffolding you built holds up everything the rest of us attempt. Thank you, brother.

To Joel Fendelman and James Sanchez: You have given these stories a form that reaches people prose cannot. Thank you for staying with it.

To the two anonymous donors who made this book possible, one of whom is also one of my dearest friends: You did not want your names here, so they are not. But you should know that your confidence in this project is the reason it became a book rather than a stack of notes, and that your friendship has meant as much to me as your generosity.

To everyone who gives to the Execution Intervention Project and everyone who sustains it with their labor: the volunteers, the letter writers, the people at the midnight vigils, the ones who send money every month without fail. This ministry has no single author. It runs on ordinary people deciding, over and over, that the condemned are worth showing up for.

And to the women and men held on death rows across this country, especially the ones who fill my days and whose names cannot appear here: The waiting has not made you invisible to me. You are still in my prayers, and the work goes on until it is finished.

A Note from the Author

* * *

I have stood in more execution chambers in more states than any spiritual advisor in the history of the United States. Thirteen times I have watched the state kill a person I came to love. Twice I have watched nitrogen gas do it. I have heard last breaths, last words, last heartbeats through a stethoscope held up to a microphone. I do not write this book from a library. I write it from the witness room.

This is a book about a bullet. It is a book about one decision. On July 1, 2026, the state of Idaho became the first jurisdiction in American history to make the firing squad its primary method of execution rather than its backup. That decision rests on four promises. The bullet is certain. The bullet is humane. The bullet is honest. When someone is given a choice, the bullet is a free choice. I will show you, promise by promise, that none of this is true.

I began writing not long after I understood what Idaho intended to do. The moment it became clear that the state meant to make the firing squad its primary method rather than its fallback, I knew someone would have to set down what that decision actually rested on, before the room was utilized and the argument hardened into settled practice. This is that account.

I write as someone who has been in the room. The condemned are not abstractions to me and they are not case numbers. They are people I have known by name, whose last hours I sat through, whose deaths I watched a state carry out on a schedule it had published in advance. Where this book turns analytical, tracing statutes, autopsy reports and legislative votes, it does so because that is what the record will bear, and because the people at the end of that record deserve an argument that can survive a hostile reading. The state can dress killing up in a hundred procedures. It remains killing.

This book is dedicated to the seven men and the one woman on Idaho's death row. It is also dedicated to everyone who has ever stood at the front of a firing squad's rifles, whether wearing the hood or holding the gun.

A note on the method of this book. Every factual claim in this book that can be sourced to a public record, a news account, a court filing or a government statement is cited in the endnotes at the end of each chapter. Where I describe what I personally witnessed, in Alabama's nitrogen chamber or in any of the other executions I have witnessed, I say so plainly. I have tried throughout to distinguish what the record shows from what I believe the record means. Readers are owed that distinction. I have tried to honor it even when my own conclusions are not neutral.

The Rev. Dr. Jeff Hood
North Little Rock, Arkansas
August 28, 2026

PROLOGUE

No Clean Kill

* * *

There is no clean way to take a human life. For centuries, we've tried to prove otherwise, refining the rope, the chair, the chamber, the needle — each new method sold as swifter and more humane than the last. Each time, the promise breaks the same way: killing doesn't get cleaner. It only gets better disguised.

Look at the history of American capital punishment. Hanging gave way to the electric chair because hanging too often meant a slow strangulation instead of a quick death. The chair gave way to the gas chamber, then to lethal injection, because burning flesh and audible suffering were too much for witnesses to watch. Each change was marketed as more humane. Each one was really an attempt to make killing look less like what it is.

Lethal injection was supposed to be the final answer: an IV line, a clinical setting, a quiet drift into unconsciousness. On paper, it reads like a medical procedure. In practice, teams with no medical training have spent long stretches searching for a usable vein while the person on the table waited. Drugs meant to bring unconsciousness have sometimes failed to work as intended, and witnesses have watched the condemned

gasp or convulse well past the moment they were supposed to be gone. That gap between the paperwork and the room isn't a rare glitch. It's what happens whenever we try to make violence look procedural.

Suppose the drugs worked perfectly, every time, in under a minute. Would that make an execution clean? I don't think so. The dirtiness of killing isn't only the mess left behind; it's in what the act asks of everyone who takes part. People who've served on execution teams describe carrying it for years afterward: sleeplessness, drinking, the sense of having done something that can't be undone or fully explained. Some officials have quit rather than do it again. That isn't squeamishness. It's what happens when the people closest to the process look hard at what a "clean" execution costs and find the bill is paid by the living as much as the dying.

That's the real trouble with the idea of a humane execution. It treats killing as a technical problem — get the dose right, the voltage right, the protocol right, and the moral weight disappears along with the mess. But taking a life isn't solved by a better needle or a quieter room. The dirtiness isn't in the method. It's in the act itself. Dress a killing in medical language, courtroom procedure, official witnesses, and a recorded time of death, and none of it changes what happened: a person who was alive no longer is, and everyone in the room had a hand in that.

We keep trying to invent the clean execution because we want sanctioned killing to be something other than what it is. It never will be. Every method eventually shows its seams: an inmate who wasn't unconscious, a witness who looked away, a team member who couldn't sleep. That isn't bad luck or a flawed protocol. It's the truth breaking through the disguise. There's no clean way to kill a person. There's only killing, dressed up to look like something else.

INTRODUCTION

The Target Over the Heart

* * *

Somewhere south of Boise, in a renovated block of a maximum-security prison, there is a chair. It has straps for the ankles, the waist, the arms. Facing the chair, through a wall with gun ports cut into it, there is a spot marked out with sandbags. A rectangle of white cloth hangs there. A small target is sewn or pinned to it, over where the heart of a human being should be.[1]

HOW THE FIRING SQUAD IS SUPPOSED TO WORK

Idaho's protocol tells you exactly who stands on the other side of that wall. Three primary shooters, plus two alternates and a team leader who loads the rifles.[2] Every one of them must be a certified Idaho law enforcement officer with at least three years of training through the state's Peace Officer Standards and Training program, with no recent disciplinary history involving firearms or the use of force.[3] None may be related to the condemned person or to anyone the condemned person killed.[4] Each of the three rifles, a Daniel Defense DD5-P chambered in .308, a weapon the manufacturer classifies as a pistol though Idaho's own paperwork calls it a rifle, is loaded with a single .308 110-grain TAP

round.[5] The shooters fire from approximately ten yards, on a cadence called by the team leader, in unison.[6] To qualify at all, a volunteer must hit a target built to those same specifications, every time in testing, from a distance the protocol sets no higher than seven yards. A single miss disqualifies him.[7] Every shooter's identity is sealed by state law. Only the prison director and one deputy know who pulled which trigger.[8] If, after the volley, up to two minutes pass and an electrocardiogram in the next room still shows a heartbeat, the director can order the same three shooters to fire again.[9]

A protocol that builds in a second volley, monitored by machine, for the specific contingency that the first one does not finish the job, is a protocol that has already conceded the point this book exists to make. The firing squad is by no means a foolproof execution method. Indeed, states don't draft contingency procedures for outcomes they believe are impossible.

Why so many shooters? Why not one shot at the brainstem? Why aim at the heart and not the head? Why so far away? Though the protocols vary by state, one thing is certain: Idaho is desperately trying to limit the moral culpability or weight that participants might feel participating in a firing squad execution.[10] But how do you convince someone that they haven't shot somebody when they signed up to shoot somebody?

FROM FALLBACK TO PRIMARY — WHY IDAHO IS DIFFERENT

As of July 1, 2026, the state of Idaho has made the firing squad its primary method of execution. It is the first American jurisdiction ever to do so.[11] Every other state that allows the bullet — Mississippi, Oklahoma, South Carolina, Utah — keeps it as a fallback, a last resort, often simply an option chosen by a condemned person from a menu of horrors.[12] Idaho alone has decided the bullet is the plan. Lethal injection, for the first time anywhere in this country, has become the backup.[13]

It would be easy to read this as one more entry in the grim ledger of American capital punishment, no different from four hundred years of

hangings, electrocutions, gas chambers, needles. Every previous shift in method has been sold to the public as an upgrade, a movement toward mercy, a substitute more humane than whatever came before. The firing squad is different. It is the first method in the modern era adopted not as an experiment, not as a stopgap, but as a considered, deliberate, primary choice. Idaho made this choice with open eyes about the drug shortages and the lawsuits that have crippled lethal injection. Idaho made it in full view of a public record already showing that the bullet itself fails. The firing squad is an intentional mistake. Idaho made it with the evidence already in front of it.

Utah is where the modern American firing squad has mostly lived. It is also where the modern death penalty itself began. Since the Supreme Court allowed executions to resume in 1976, three men have died in front of Utah's rifles. Gary Gilmore was the first, on January 17, 1977, the first person executed anywhere in the country after the death penalty returned. He demanded it. He waved off his own appeals and told the state to stop delaying. His last words — "Let's do it" — became the epitaph of the era. The firing squad didn't enter the modern age as a horror the public recoiled from; it entered as a choice a condemned man insisted on.

John Albert Taylor was next, on January 26, 1996, nineteen years later. Ronnie Lee Gardner was last, on June 18, 2010, fourteen years after that. Three men across thirty-three years. That is how rare the American firing squad has been. And that is how deliberately Idaho has now chosen to make it common. Utah kept the bullet as an option, a thing a prisoner could request. Idaho took that same method and made it the rule. Everything Idaho built traces back to an execution chair in Utah and a man who asked to sit in it.[14]

In the sixteen months between Brad Sigmon's execution and the day Idaho's law took effect, South Carolina performed three firing squad executions, the first any state had performed since 2010.[15] Brad Sigmon died first, on March 7, 2025. By most accounts, the witnesses' accounts and the state's own commissioned autopsy, the three bullets fired at him

struck close to where they were aimed.[16] Thirty-five days later, Mikal Mahdi was strapped into the same chair. This time the autopsy told a different story. Two wounds, not three. Neither one through the heart.[17] A prisoner who, his lawyers' pathologist said, likely stayed conscious for thirty to sixty seconds or more while his body kept functioning around the damage.[18] Stephen Bryant followed in November, and by the account of the witnesses in the room his execution did what the protocol said it would do.[19] One execution that worked, one that demonstrably did not, one that appears to have worked, inside eight months, inside a single state. That was the record on the desk when Idaho made the bullet its default.

FOUR PROMISES, AND THE QUESTION THEY AVOID

I have organized this book around four claims. Every advocate of the firing squad keeps returning to them, from Idaho legislators to South Carolina prosecutors to the condemned men who have chosen the bullet themselves. I call them "promises" because that is what they are. Assurances made to a public grown queasy about lethal injection's failures. Offered by people who want the killing to continue but need to sell it to the public as clean.

The first promise is certainty. A bullet, unlike a vein, cannot fail to be found, or so the claim goes. Chapter 6 shows you the autopsy reports that say otherwise.

The second promise is humanity. A gunshot to the chest is fast, the claim goes, and fast is the same thing as painless. Chapter 6 walks through what a bullet does to a body when it misses the heart by a few centimeters. Chapter 7 asks how long a conscious person continues suffering.

The third promise is honesty, and it is the hardest of the four to dislodge, because its defenders have made it sound like a virtue. At least the firing squad does not pretend to be medicine, they say. No IV, no lethal drug dressed up in a doctor's vocabulary, just a gun and the plain admission of what a gun is for. Chapter 8 takes that claim at its word and

then asks what "honest" can mean about a killing conducted behind a black pull-shade, carried out by shooters whose identities the state seals by law, aimed by men who train against cardboard rather than against human flesh, that responds very differently when hit. An honesty that hides its own executioners is not honesty. It is theater with better lighting.

The fourth promise is free choice. Sigmon chose the bullet over the needle and the chair. Mahdi did too, after him. The claim is that this choice makes the execution consensual. Chapter 9 asks what "choice" can mean when every option on the menu ends the same way. Or perhaps better put, what does choice mean when the party doing the killing wrote the menu?

Between these four chapters sits the story of Idaho itself, because promises are not abstractions. They land on particular people. Idaho currently holds eight human beings under sentence of death. Seven men live at the Idaho Maximum Security Institution. One woman, Robin Row, lives at the Pocatello Women's Correctional Center.[20] Among the men is Thomas Eugene Creech, seventy-five years old as I write this. He is the longest-serving death row prisoner in the state's history, and among the longest-serving anywhere in the country. He is a man Idaho already tried and failed to kill.[21] On February 28, 2024, an execution team spent an hour trying eight times to find a vein in Creech's arms suitable for lethal injection. The warden called it off.[22] Creech was returned, alive, to his cell. He is alive still. He is one reason the legislature built a new chamber with a wall full of gun ports. He may be the first man Idaho tries to kill in it.

Let me say something plainly, because plainness is the only honest register left for this subject. I organized and helped lead the march in Dallas on July 7, 2016. Micah Johnson ambushed that march that night and killed five police officers.[23] I was on that street when it happened. I know something about what a bullet does to a body at close range. I do not write about gunfire as an abstraction or a policy mechanism. I write about it having stood near enough to know exactly what it does, and

how little control anyone, marksman or murderer, actually has over where a bullet ends up and what it destroys on the way. The knowledge I have of gun violence is part of why I have pursued this topic. I mean, don't we need less shooting in this country?

I write too as someone who has stood in the chamber for thirteen executions, more than any other spiritual advisor in the country. That number includes the deaths of Kenneth Smith and Anthony Boyd, among the first people executed by nitrogen gas in the United States.[24] I do not raise this to establish credentials. I raise it because it matters for what follows. Every method of execution I have witnessed sold itself to the public with these same four promises: certain, humane, honest, chosen. I have watched all four promises break in real time, in rooms where I stood close enough to touch the person they broke on.

Nitrogen gas was supposed to be instantaneous. It was not, not for Kenneth Smith, who convulsed and heaved against his restraints for several minutes while witnesses watched. I was one of them.[25] It was not instantaneous for Anthony Boyd either. The horror seemed incessant. I estimated he was conscious and fighting for life for at least nineteen minutes.[26] The promises of nitrogen executions were a lie. Lethal injection was supposed to be medical and peaceful. I have watched it take far longer than advertised. I have watched the person on the gurney struggle for breath in ways the protocol never anticipated. The firing squad is not a uniquely dishonest method surrounded by honest ones. It is the next entry in a long American tradition of manufacturing euphemism for one underlying act: the state's deliberate destruction of a human being who cannot fight back.

WHY THE FIRING SQUAD STANDS ALONE

Here is what makes the firing squad worth a book of its own, rather than one more chapter in a general history of capital punishment. It strips away more of the euphemism than any other method now in use. There is no IV line to imagine as medicine. There is no gas chamber that can be described, however falsely, as merely going to sleep. There is a gun.

There is a bullet. There is a target pinned over a man's heart, and human beings pulling triggers because a legislature decided this might be the method the courts cannot take from them. That starkness is an opening. The firing squad forces the question every euphemism exists to avoid. Not, "Is this method humane?" But rather, "Is shooting a restrained, unarmed person ever a legitimate act of government?"

None of what follows depends on anyone's view of the people on death row. I do not expect every reader to arrive at abolition, and I am not asking you to relitigate their guilt on my terms. Some readers will finish this book still believing Thomas Creech and the others on death row in Idaho deserve to die for what they did. Some will finish believing that Mikal Mahdi, who murdered Orangeburg Public Safety Captain James Myers in South Carolina and burned his body in a shed, deserves to die too.[27] Guilt is not the question this book asks. Here is the question, and I think it is unavoidable once you have read the autopsy reports in Chapter 6: "Can a state that has watched its own pathologist describe thirty to sixty seconds of a conscious man's suffering call what it did certain? Humane? Honest? A Choice?" If the answer is no, and I believe by the end of this book you will agree it is no, then Idaho's wager is not a policy innovation. It is a bet that the public will not look closely enough at four broken promises to notice that one of them has already failed, in autopsied and documented form, in a state that used this method three times in a single year, well over a year before Idaho's own law took effect.

This book asks you to look closely. It runs in five parts. Part One tells how Idaho arrived at July 1, 2026, from Thomas Creech's failed execution through the votes that followed. Part Two is the analytical heart of the book, one chapter for each broken promise. Part Three returns to Idaho itself: the people on its row, the officers who will be asked to shoot them, the witnesses who will watch, the money and the litigation the state has already spent. Part Four looks past Idaho, to the federal government and the states now following its lead. Part Five

closes with what I believe the firing squad actually reveals, once you strip away everything else, about what an execution is and has always been.

The target is sewn over the heart because the heart is supposed to mean an instant kill. Six times in the modern era, in Utah and then in South Carolina, marksmen have been handed three to five rifles and told exactly where to aim.[28] Three of those six, all in Utah between 1977 and 2010, predate any serious post-execution pathology; the public record does not describe them as having failed, and it does not contain documentation capable of establishing that they did not. Of the three that produced a modern record, one is documented to have missed, and the man in the chair stayed conscious while it did. That is the entire evidentiary basis for the promise Idaho has now built a room around. This book is about the distance between what the state promised and what the state can show. For the man in the chair. For the officer behind the wall. For a state that has decided the miss is a risk worth taking.

NOTES

1. Kevin Fixler and staff, "Idaho Will Soon Turn to Firing Squad Executions. Police Will Pull the Triggers," Idaho Statesman, June 10, 2026; "Firing squad set to become primary method of execution in Idaho," IdahoNews.com (CBS2 Boise), June 2026, https://idahonews.com/news/local/firing-squad-set-to-become-primary-method-of-execution-in-idaho.

2. Royce McCandless, "How death by firing squad will work in Idaho," Idaho Press, June 2026, https://www.idahopress.com/news/idaho-firing-squad-procedures/article_24e2c5ac-4b55-4db2-93e1-cc16eadb32f3.html; "IDOC outlines firing squad procedures as new policy nears implementation," Rexburg Standard Journal, June 2026, https://www.rexburgstandardjournal.com/news/local/idoc-outlines-firing-squad-procedures-as-new-policy-nears-implementation/article_df29e88d-8767-4034-b7df-4524ae56368a.html. The general execution framework these reports describe, including the Escort Team and Administrative Team structure into which the firing squad function was added, is set out in the Idaho Department of Correction's own Standard Operating Procedure, "Execution Procedures," Control Number 135.02.01.001, Version 5.0 (approved October 11, 2024), published at https://forms-idoc.idaho.gov/WebLink/0/edoc/283090/Execution%20Procedures.pdf. This version of the document predates the July 2026 firing squad implementation and does not itself describe the firing squad procedure;

the firing-squad-specific revision of this SOP, and the companion document it references, "Execution Chemicals Preparation and Administration," were not independently located online for this book and are cited here through the news accounts above.

3. Idaho Department of Correction execution standard operating procedure, IDOC Form 283090, as reported in "Idaho's Firing Squad: Quick Death Or Torture?," Fix This Nation, 2026, https://fixthisnation.com/idahos-firing-squad-quick-death-or-torture/; "Idaho to rely on law enforcement volunteers for firing squad executions," Police1, 2026, https://www.police1.com/corrections/idaho-to-rely-on-law-enforcement-volunteers-for-firing-squad-executions; McCandless, Idaho Press, June 2026. The base SOP's parallel qualification standard for the Medical Team, requiring "no personnel disciplinary action in the past 12 months," reflects the same disciplinary-history principle. IDOC, "Execution Procedures," Control Number 135.02.01.001, Version 5.0.

4. Royce McCandless, "How death by firing squad will work in Idaho," Idaho Press, June 2026. The base SOP imposes an identical no-relation requirement on Escort and Medical Team members: "No blood or legal relationship to the victim or victim's family," and "No blood or legal relationship to the condemned person or family." IDOC, "Execution Procedures," Control Number 135.02.01.001, Version 5.0.

5. "Idaho Death Penalty Update: Law Enforcement Volunteers to Carry Out Firing Squad Executions," Officer.com, 2026, https://www.officer.com/command-hq/corrections/news/55383582/idaho-death-penalty-update-law-enforcement-volunteers-to-carry-out-firing-squad-executions; "Idaho to rely on law enforcement volunteers for firing squad executions," Police1, 2026; Royce McCandless, Idaho Press, June 2026 (rifle cost confirmed by IDOC spokesperson as $4,843.94 per unit).

6. "Idaho Death Penalty Update," Officer.com, 2026; "Idaho's Firing Squad: Quick Death Or Torture?," Fix This Nation, 2026.

7. "Idaho's firing squad law takes effect July 1. Here's what to know," Yahoo News/Idaho Statesman, June 2026, https://www.yahoo.com/news/politics/articles/idahos-firing-squad-law-takes-100000220.html; "Idaho to rely on law enforcement volunteers for firing squad executions," Police1, 2026 (quoting IDOC standard operating procedure: "Failure to accurately hit the specific target with one round from each IDOC-provided firearm disqualifies the volunteer from selection").

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06.01.01.135.

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PART I

THE RETURN OF THE GUN

The firing squad chamber borrows nothing. It looks like what it is:
a place built for shooting a restrained person at close range.

CHAPTER 1

July 1, 2026

* * *

The Idaho Maximum Security Institution sits south of Boise, past the airport, out where the valley gives way to scrubland and the Snake River Canyon starts to make its long cut toward Twin Falls.[1] It is not a building anyone would notice from the highway. Prisons in this country are designed to be unnoticed, which is itself a kind of statement about what the public is willing to fund and unwilling to watch. Inside, in a unit called F-Block, the state of Idaho spent more than 1.2 million dollars over roughly fourteen months building something it had not needed to build in nearly fifty years: a room designed, from the studs out, for three armed men to shoot a fourth who cannot move.[2]

Construction began in the spring of 2025, not long after Governor Brad Little signed House Bill 37 into law. It finished just ahead of the statute's July 1, 2026 effective date.[3] What the Department of Correction built is, by design, unremarkable to look at in the way that all the machinery of American execution is unremarkable to look at, right up until the moment it is used. There is a chair bolted to the floor, fitted with restraints at the ankles, the waist, and the arms. There is a wall between the chair and an adjoining room, with gun ports cut into it at

chest height, screened until the moment of use. There is a target, roughly the size of a fist, positioned by protocol over the heart of whoever is seated in the chair. Sandbags line the wall behind the chair to catch what the target does not stop. Whether humans would stand behind those ports, or a remote-operated mechanism, was a question for later.[4]

The plainness of that description is exactly what the architecture is built to defeat. A hospital room, which is what the lethal injection chamber is designed to resemble, borrows the visual grammar of healing to disguise an act of killing. The gas chamber, whether the older cyanide design or the newer nitrogen hood, borrows the grammar of a laboratory. The firing squad chamber borrows nothing. It looks like what it is: a place built for shooting a restrained person at close range. That bluntness will matter throughout this book, because it is, perversely, the method's single honest feature and simultaneously the thing every other part of its protocol works hardest to bury.

HOW IDAHO GOT HERE

Idaho has not executed many people. Since capital punishment resumed nationwide after the U.S. Supreme Court's 1976 decision in *Gregg v. Georgia*, Idaho has completed exactly three executions: Keith Wells in 1994, Paul Ezra Rhoades in November 2011, and Richard Leavitt in June 2012.[5] All three died by lethal injection. For over a decade after Leavitt, nothing happened. Idaho kept sentencing people to death and kept failing, for one reason after another, to carry the sentences out.

By the early 2020s, the reason had a name: the drug supply.

Pentobarbital, the barbiturate most states had come to rely on for lethal injection after European manufacturers cut off the supply of the older three-drug protocols, became increasingly difficult for corrections departments to obtain as pharmaceutical companies, facing public pressure and their own moral objections, refused to sell to prisons for the purpose of killing people. Idaho felt this acutely. Gerald Pizzuto Jr., a death row prisoner, had an execution date set for December 2022 that had to be called off because the state could not get the chemicals.[6]

Idaho's corrections director, Josh Tewalt, informed the state's Board of Correction in a memo, later filed with the court, that the department was unable to obtain the drugs and recommended letting Pizzuto's death warrant expire.[7] Legislators, watching neighboring states hit the same wall, began looking for a method the pharmaceutical industry could not choke off by refusing to sell a chemical. In 2023, Idaho passed a bill authorizing the firing squad as an alternative method, available if lethal injection proved unavailable.[8] It was meant, at that point, as a backstop. Nobody involved was yet describing it as the plan. Two years later, they were. After the failed execution attempt Chapter 2 recounts, the legislature inverted the arrangement: House Bill 37, signed by Governor Little on March 12, 2025, made the firing squad Idaho's primary method and lethal injection its fallback, effective July 1, 2026. Chapter 3 tells how that vote was won. This chapter stays with the room the vote required.

THE ROOM GETS BUILT

Between May 2025 and June 2026, the actual work of retrofitting F-Block proceeded, though not without friction the public rarely saw. After Idaho passed its 2023 firing squad backup law and began preparing to retrofit F-Block, the Department of Correction discovered that contractors willing to do the physical construction work were hard to find; multiple firms, according to the department's own later statements, declined to bid on a project explicitly tied to executions.[9] That reluctance delayed the buildout for years and is itself a data point worth sitting with: the people whose job is pouring concrete and running electrical conduit, professionals with no stated position on capital punishment, took one look at what they were being asked to build and said no. The state eventually found contractors who would do the work. Construction finished in the weeks before the July 1, 2026 deadline.

The Department of Correction also finalized, ahead of that date, a training and qualification protocol for the trained, POST-certified law enforcement officers who would staff the shooting team.[10] Chapter 11 walks through those qualifications in detail. For now, it is enough to

note the shape of the requirement: a team of six officers, of whom three fire, each with three years of Peace Officer Standards and Training certification, a clean disciplinary record regarding firearms and use of force for the preceding twelve months, and one hundred percent accuracy on a marksmanship test requiring a minimum of seven yards against a target built to the same specifications as the one that will be pinned to a living man's chest.

WHAT JULY 1 ACTUALLY CHANGED

It is worth being exact about what the law did and did not do, because a great deal of the coverage around Idaho's transition, and no small amount of the misinformation Snopes and other fact-checking organizations had to run down in the weeks before the effective date, blurred an important distinction.[11] House Bill 37 did not abolish lethal injection in Idaho. It reversed the hierarchy. Where lethal injection had been the default and the firing squad the fallback since 2023, as of July 1, 2026, the firing squad is the default and lethal injection becomes available only if the firing squad proves impossible, unconstitutional, or otherwise unavailable. This means that when the next death warrant is signed in Idaho, whether for Thomas Creech, for Robin Row, or for any of the other six people on the state's row, the default assumption written into law is that the state will use the gun. Lethal injection has become the method Idaho reaches for when its first choice is unavailable, an inversion nowhere else in the country has made.

Idaho did not do this quietly or apologetically. State officials, in interviews around the July 1 transition, described the department as "ready" to carry out the new procedure.[12] There was no ambiguity in the tone, no sense of a state backing reluctantly into an unpleasant necessity. It was presented as competence, as problem-solving, as a legislature and a corrections department that had identified a failure point in their machinery of death and engineered around it.

THE SWITCH, AND THE MAN HOLDING IT

There is a step in the statute that almost no account of Idaho's new law describes, and it changes what the word "primary" means. Section 19-2716 does not simply announce that the state shoots people now. It builds a switch and puts one man's hand on it.[13]

Not later than five days after a court issues a death warrant, the director of the Idaho Department of Correction must determine whether execution by firing squad is available and certify that determination by affidavit to the court that issued the warrant. If he certifies that it is available, the method is the firing squad. If he does not certify, or if he simply fails to file, the method is lethal injection.[14]

That last clause is important. The firing squad method isn't automatic. It rests on a sworn document filed inside a five-day window, and the director's silence is enough by itself to put the needle back. Idaho's primary method of execution is primary in the way a default setting is primary. It's what happens when nobody does anything.

The state told its legislature that the firing squad was sure. It then wrote a statute in which the sureness of the method is established not by evidence but by an affidavit, produced on a deadline, by the same office that told the public Thomas Creech's failed execution was the process working as intended. No standard governs the determination. The statute does not say what makes a firing squad available or unavailable, does not require the director to explain his reasoning, and does not provide for anyone to contest it. It requires only that he decide and sign, within five days.

The same section removes the ordinary check on how he decides. Subsection (6) gives the director the power to set the procedures for any execution and exempts those procedures from Idaho's Administrative Procedure Act. That exemption is not incidental. It is what House Bill 803 secured in March of 2026, and Chapter 13 traces what it cost to get it. The result is a method selected by one official under no announced standard, carried out under procedures that same official writes without public rulemaking.[15]

One practical note, because it has already misled people. The commercial legal databases have been slow to catch up. As of this writing, at least one widely used service still displays the 2023 text of section 19-2716, in which the director certifies the availability of lethal injection, and the firing squad is what happens if he cannot. That is the law Idaho repealed. A reader who checks Idaho's execution statute on a database rather than on the legislature's own site will find the hierarchy backward.[16]

RETROACTIVE BY DESIGN

One further legal detail deserves emphasis before this chapter turns to the public's confused reception of it, because it is easy to miss and it matters enormously for the eight people named in Chapter 10. House Bill 37 applies to every execution carried out after its July 1, 2026 effective date, regardless of when the underlying death sentence was originally imposed.[17] This is not a law that applies only to new capital convictions handed down after the statute took effect. Thomas Creech was sentenced to death for the killing that put him on the row in 1983. Gerald Pizzuto was sentenced in 1986. Both men were sentenced under a legal regime that specified lethal injection, or in Creech's earliest history, methods that predate even that. Neither man, nor the jury that sentenced him, contemplated the firing squad as the method that would eventually be used. House Bill 37 reaches backward across that gap without exception, applying its new default to every person on Idaho's row the moment the statute's effective date arrived, a retroactive sweep that a reader unfamiliar with execution-method jurisprudence might assume would raise its own distinct constitutional question, separate from the method's reliability. Courts have generally held that changes to execution method, as opposed to changes to the sentence itself, do not implicate the constitutional protections against retroactive punishment, since the underlying sentence, death, remains unchanged; only its manner of implementation is altered. Whatever the doctrinal soundness of that distinction, and this book takes no position on it, the practical

effect for Idaho's eight condemned residents is the same: none of them chose, or could have anticipated, the specific method now scheduled to be used against them, and the state's retroactive application of House Bill 37 forecloses any argument that the new method's adoption alone entitles them to relief.

THE PUBLIC REACTION, AND THE CONFUSION IT GENERATED

The weeks surrounding July 1, 2026 produced a genuinely strange information environment, one worth documenting because it illustrates how poorly the public actually understood what its own legislature had done. Claims circulated on Facebook, X, and Threads in June 2026 asserting that Idaho was "officially moving away from lethal injection" altogether, and that the firing squad would become the mandatory method specifically for people convicted of raping a child, conflating House Bill 37 with the companion child-sexual-abuse capital statute Chapter 3 discusses in detail.[18] Both claims required fact-checking. Snopes investigated and confirmed the narrower, more accurate version of the story: Idaho had made the firing squad primary, but had not eliminated lethal injection, which remains available as a backup, and the firing squad is not statutorily tied to any specific category of offense, applying instead to whichever sentence a court has already imposed under whichever capital statute governed the conviction.[19]

The confusion is worth considering because it reveals something about how thinly the public actually engages with capital punishment policy even at the moment of its most dramatic revision in decades. A change significant enough to make Idaho the first state in American history to default to the bullet generated, in its immediate aftermath, more viral misinformation about its scope than accurate public understanding of its substance. Local coverage, from outlets like Idaho's CBS2 affiliate, did the more sober work of explaining the actual mechanics, the five-state landscape, the new chamber, the qualification standards this book has already detailed. But that coverage competed, in the information ecosystem most Americans actually inhabit, with viral

claims that were simpler, more alarming, and considerably less accurate. This is not a matter of blaming ordinary people for failing to track legislative minutiae. It is a matter of noting that a policy this consequential deserves a public conversation considerably more careful than the one it actually received, and that the gap between what Idaho's law does and what the public believes it does is itself a kind of failure, adjacent to but distinct from the failures of certainty, humanity, honesty, and choice this book spends its remaining chapters examining in detail.

THE REST OF THIS BOOK

The rest of this book is an argument that Idaho engineered around the wrong failure. The vein was never the problem. The problem is what happens when a state decides that killing a person is a task to be optimized rather than a thing it should not be doing at all. Idaho spent 1.2 million dollars and fourteen months solving for certainty. Chapters 6 through 9 show, using Idaho's own five-state cohort as the evidence, that certainty is not what it bought.

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13. Idaho Code § 19-2716, as amended by House Bill 37 (2025). Text as published by the Idaho State Legislature, https://legislature.idaho.gov/statutesrules/idstat/title19/t19ch27/sect19-2716/.

14. Idaho Code § 19-2716(2)-(4).

15. Idaho Code § 19-2716(6), providing that the director determines execution procedures and that those procedures are not subject to chapter 52, title 67, Idaho Code, the Idaho Administrative Procedure Act. On House Bill 803, see Chapter 14.

16. Compare the text of Idaho Code § 19-2716 published by the Idaho State Legislature with the superseded version still displayed at FindLaw, https://codes.findlaw.com/id/title-19-criminal-procedure/id-st-sect-19-2716/ (accessed July 2026), which reflects the 2023 text enacted by House Bill 186.

17. House Bill 37, Idaho State Legislature, 2025 regular session (legislature.idaho.gov/sessioninfo/2025/legislation/h0037/); Death Penalty Information Center, "2025 Roundup of Death Penalty Related Legislation," February 4, 2026.

18. Snopes, June 25, 2026.

19. Snopes, June 25, 2026; Death Penalty Information Center, "Idaho," state-by-state profile (accessed July 2026).

CHAPTER 2

Eight Needles, No Vein

* * *

Idaho's room full of gun ports began with the inability to find a man's veins during a lethal injection procedure.

Thomas Eugene Creech was born September 9, 1950.[1] By the time Idaho police linked him to a killing in 1974, he already had a history that would eventually make him one of the most written-about prisoners in the state's history, and one of the hardest to fit into any tidy account of guilt, punishment, and proportion. Creech was convicted of two murders committed that year and initially sentenced to death, a sentence a court reduced to life imprisonment on appeal two years later.[2] He did not stay off death row. In 1981, while already imprisoned, Creech beat a fellow inmate, David Dale Jensen, to death in what prosecutors characterized as an unprovoked attack inside the prison itself.[3] He was sentenced to death for that killing in 1983, and he has been under that sentence ever since, making him the longest-serving death row prisoner in Idaho's history and among the longest-serving in the nation.

The scale of what Creech may have done beyond his convictions is genuinely difficult to state responsibly, because the record is a mixture of solid evidence and claims that were never corroborated. Over the years,

Creech confessed at various points to as many as forty-two killings across multiple states, some tied, in his own telling, to an unnamed biker gang and drug-running network, and at least one confession invoking a satanic church.[4] Almost all of that is uncorroborated. What investigators have been able to substantiate is narrower and still serious: police have linked him with reasonable confidence to somewhere between nine and eleven killings, and he has been convicted in connection with five.[5] As recently as January 2024, a cold-case investigation by the San Bernardino County Sheriff's Department in California concluded that Creech was responsible for the 1974 murder of a man named Daniel Walker, decades after the fact.[6]

I recount this not to diminish the horror of what Creech did, which is real and substantial by even the most conservative accounting, but because his case sits at the extreme edge of what the American death penalty is built to handle, and extreme cases have a way of revealing what a system actually values when it is tested.

The Clemency Vote That Split Down the Middle

On January 19, 2024, the Idaho Commission of Pardons and Parole heard Creech's clemency petition. Ten days later, on January 29, the board announced that it had deadlocked three to three.[7] Under the state's rules, a tie is not a win for the person seeking mercy. It is treated as a failure to reach the majority required to recommend clemency, and so the deadlock functioned, procedurally, exactly as a denial would have. One detail from that hearing deserves more attention than it has generally received: one of the original prosecutors from Creech's first trial, a man named Jim Harris, said afterward that he had come to believe Creech should be taken off death row, not out of sympathy for what Creech had done but because, in his assessment, the case had already cost Idaho taxpayers an enormous sum chasing an execution that might, in his words, never actually happen.[8] This is worth sitting with. A prosecutor who helped put Creech on death row in the first place had concluded, decades later, that the machinery built to carry out his

sentence had become its own kind of failure, independent of any question about Creech's guilt.

Governor Little, who holds final authority over clemency in Idaho's capital cases, declined to override the board's deadlock. Judge Jason D. Scott signed a new death warrant the following day, setting execution for February 28, 2024.[9]

THE ROOM WHERE NOTHING WORKED

What happened on the morning of February 28, 2024 is the hinge of this book. It deserves to be taken slowly, because the details matter and because the state's own after-action language repays scrutiny sentence by sentence.

Creech was moved into F-Block, the same unit that now houses the firing squad chamber, in the standard pre-execution process. On the morning of February 28, the execution team began the process of establishing intravenous access for the lethal injection protocol. Over the course of roughly an hour, according to reporting from the scene and the department's own subsequent statements, the team made eight separate attempts to establish a usable line. All eight failed.[10] Around eleven in the morning, IDOC Director Josh Tewalt made the decision to stand down the execution rather than continue attempting access or fall back on some improvised alternative. Creech, who had been prepared for death, restrained, and presumably had spent that hour believing this was the day he would die, was instead unstrapped and returned to a cell. The death warrant expired at midnight that night without having been carried out.

Tewalt's statement to the press afterward is a document worth reading in full, because it is the clearest early example of a rhetorical pattern this entire book tracks: the reframing of a visible failure as evidence of institutional integrity. "While the execution of Thomas Eugene Creech did not proceed, the process worked as intended," he said. "Our medical team experienced difficulty establishing an IV site of sufficient quality to carry out the execution by lethal injection. It's a

scenario for which we trained and prepared, and I made the decision to stand down the execution based on the professional advice of our medical team. It was the right decision. Some are characterizing today's events as a failure, but the opposite is true. The process worked to prevent a failure, and I think that's an important distinction."[11]

Read that passage again and notice what it is actually claiming. It is not claiming that the execution succeeded. It is claiming that the failure to execute was itself a species of success, because the alternative, an execution botched in progress rather than aborted beforehand, would have been worse. This is not an unreasonable position to hold about that specific morning. Standing down rather than forcing a ninth or tenth attempt at a vein was almost certainly the right call in the narrow sense that Tewalt meant it.

But notice what the statement does not do. It does not ask why the state was in that position at all. It does not ask whether an institution that requires eight failed venous attempts before choosing not to continue has actually demonstrated competence, or whether it has demonstrated exactly the opposite, dressed in the language of professionalism and dignity. "Infused this difficult process with dignity and respect," Tewalt said of his staff's conduct that morning.[12] I do not doubt that the individuals involved conducted themselves with as much composure as the circumstances allowed. But dignity in the execution of a botched procedure is not the same thing as the procedure having been dignified, and this book will keep returning to that distinction because Idaho's pivot to the firing squad depends on readers not noticing it.

What a Death Warrant Day Looks Like

It is worth describing, briefly, what an actual execution date does to the ordinary functioning of the institution around it, because the bureaucratic texture of the day makes the abstraction of "carrying out a sentence" considerably more concrete. On the day Idaho attempted to execute Thomas Creech in February 2024, the department reduced speed limits on the roads surrounding the prison complex, canceled

ordinary visiting hours at every facility south of Boise, and opened designated areas for demonstrators, all standard operating procedure for a scheduled execution rather than anything specific to Creech's case.[13] Media witnesses were briefed on logistics and timelines well in advance and escorted, as a group, from an administrative holding area to the viewing room at a scheduled hour, a choreography practiced enough that the department could describe it to reporters in advance with confidence, even though the execution itself did not, in the end, proceed.

This matters not because traffic patterns or visitor schedules bear directly on this book's argument, but because the sheer bureaucratic ordinariness of the surrounding machinery is itself part of what this book has been describing throughout. An execution, in the state's own operational planning, is treated as a logistics problem alongside speed limits and visitor management, planned with the same institutional competence a state applies to any other scheduled public function. That competence is real, and it is also beside the point. The state can coordinate traffic control and visitor schedules with total reliability while still failing at the one task all of that coordination exists to support.

THE SECOND ATTEMPT, AND THE ARGUMENT THAT STOPPED IT

The state did not let the matter rest. On October 16, 2024, IDOC served Creech with a new death warrant, scheduling his execution for November 13. This time, the department announced, it had changed its protocol: rather than relying solely on peripheral veins in the arms, the execution team would be authorized to use deep central venous access, meaning sites in the neck, chest, or groin, if the earlier sites again proved inaccessible.[14]

Creech's attorneys at the Federal Defender Services of Idaho argued that subjecting a man to a second execution attempt after the state had already failed once amounted to cruel and unusual punishment under the Eighth Amendment, independent of any question about the method's theoretical reliability going forward.[15] Their public statement

at the time framed the stakes starkly: "Mr. Creech has spent more than 50 years in prison and is now suffering from significant mental health issues because of the trauma he was subjected to when the state failed to execute him. We hope the courts will recognize the cruel and unusual level of punishment that this remorseful and harmless old man has already been through, and stop a needless execution."[16]

The phrase "harmless old man" captures something true about the peculiar cruelty of extreme longevity on death row. Whatever Creech did in 1974 and 1981, the man who sat in F-Block in November 2024 was seventy-four years old and had spent, by that point, close to five decades in some stage of capital proceedings. Punishment stretched across that much time does something to the moral texture of a sentence that the original jury, sentencing a man in his twenties or thirties, could not have anticipated and did not vote on.

The execution did not happen, though not on the ground Creech's attorneys had pressed hardest. On November 6, 2024, a week before the scheduled date, U.S. District Judge G. Murray Snow of Arizona, sitting by designation, stayed the execution — not because he had found merit in the Eighth Amendment claim, but to give the parties time to brief a separate set of claims that prosecutors had acted improperly at Creech's clemency hearing, and to await the Idaho Supreme Court's ruling on the state-law versions of the double jeopardy and cruel-and-unusual arguments. "I'm not going to rush justice in a case like this," Snow said. The death warrant expired on its own terms.[17] As of this writing, in July 2026, Creech remains alive on Idaho's death row, his case unresolved, his age now seventy-five, the state's oldest and most visible failure of capital process and, not coincidentally, the single case legislators cited most often while building the argument for House Bill 37.

Three weeks later, the state court answered, and it answered against Creech. On November 27, 2024, the Idaho Supreme Court unanimously held that a second execution attempt would violate neither the Double Jeopardy Clause nor the Eighth Amendment, reasoning that the psychological strain and pain Creech described were inherent in any

method of execution, and that the first attempt had not completed the punishment the legislature authorized. I do not think that reasoning survives contact with the account this chapter has just given. But it is the law in Idaho as of this writing, and any reader weighing what stands between Thomas Creech and the chair in F-Block should know that his strongest constitutional argument has already been heard by his state's highest court and rejected without a dissent.

The Prosecutor's Later Doubt, Revisited

Jim Harris's reflection, noted earlier, carries a fuller significance than it first appears to. Harris was not a defense attorney, an abolitionist advocate, or an outside critic of Idaho's capital punishment system. He was one of the prosecutors who built the case that first sent Thomas Creech to death row, a person whose professional life was invested in securing exactly the outcome Idaho spent five decades failing to carry out. When a person in that position concludes, decades later, that the pursuit of an execution has become its own kind of failure independent of the underlying question of guilt, that conclusion carries a different evidentiary weight than the same argument made by someone who opposed the death penalty from the outset.

I raise this because it previews a pattern this book will return to in its final chapters: the people best positioned to recognize the machinery of capital punishment as dysfunctional are often the people who have spent the most time operating it, not outside critics who arrived at their conclusions from principle alone. Josh Tewalt's own statement after the failed 2024 execution, discussed earlier in this chapter, shows an institutional actor straining to describe a failure as a success. Jim Harris's statement, from a different vantage point inside the same system, shows an institutional actor arriving, without any apparent ideological agenda, at something closer to this book's own diagnosis: that Idaho's pursuit of Creech's execution had become, independent of any judgment about his guilt, a project whose costs had stopped making sense on its own terms.

A Pattern, Not an Anomaly

Idaho's failure with Creech did not happen in a vacuum, and it is important to resist the temptation, which Idaho's own legislative debate indulged constantly, to treat it as a uniquely Idahoan embarrassment rather than a symptom of a national collapse. Lethal injection has been failing publicly, in state after state, for close to two decades. Oklahoma's execution of Clayton Lockett in 2014 became a national story when a poorly placed IV allowed drugs to leak into surrounding tissue rather than his bloodstream, and Lockett writhed and spoke for over twenty minutes before dying of a heart attack roughly forty minutes after the drugs began, rather than by the intended drug protocol.[18] Alabama's attempted execution of Doyle Hamm in 2018 was called off after roughly two and a half hours of failed attempts to find usable veins, leaving Hamm's attorney to describe a body covered in puncture wounds.[19] Alabama tried again with Alan Miller in 2022 and called that one off too, for the same underlying reason: no usable vein, found in time, before the death warrant expired.[20] Kenneth Smith, whose 2024 nitrogen execution I witnessed and describe later in this book, had himself survived a failed lethal injection attempt in Alabama in 2022, the state having given up after more than an hour of trying to establish access before his warrant lapsed.[21]

I list these cases together because Idaho's legislature, in the floor debate over House Bill 37, treated Creech's case as though it were an isolated engineering problem, solvable with a better protocol or a different execution method. It was not isolated. It was the local instance of a pattern playing out across nearly every state that still relies on lethal injection, a pattern with a specific, well-documented cause: the same pharmaceutical industry that manufactures the drugs states want to use for killing has spent the last fifteen years trying to keep those drugs out of execution chambers, refusing to sell to corrections departments, tightening distribution agreements, and forcing states into a black market of compounding pharmacies and expired stock that produces exactly the kind of unreliable, botched procedures Creech experienced.

The firing squad's appeal to legislators, across every state that has adopted or expanded it in the past several years, is precisely that it does not depend on a supply chain any manufacturer can choke off. A rifle and a bullet require no pharmaceutical company's cooperation. This is, from the state's perspective, the method's core engineering advantage. Idaho did not turn to the firing squad because the evidence showed it was more humane. It turned to the firing squad because the evidence showed lethal injection was becoming impossible to reliably supply, and the firing squad solves a supply-chain problem, not a suffering problem.

The Clemency Board's Silence

One further detail about the Idaho Commission of Pardons and Parole's three-to-three deadlock deserves attention, because the board's own reasoning, or the absence of any detailed public reasoning, is itself informative. Clemency hearings of this kind typically produce some public record of the considerations weighed, whether in the form of published opinions, dissenting statements, or at minimum a summary of the arguments presented. The three-to-three deadlock on Creech's petition does not appear to have generated the kind of detailed public reasoning that would let outside observers understand precisely what divided the board, whether the disagreement centered on questions of guilt, questions of proportionality given Creech's age and decades of incarceration, or questions of process given the seventh board member's absence that Creech's subsequent appeal specifically challenged.

This matters for the same reason the shield laws matter: the more opaque a decision-making process is, the harder it becomes for the public to hold the institution accountable for the reasoning behind its decisions, or to learn from that reasoning when the next difficult case arises. A clemency board that explains its reasoning in detail, even where that reasoning ultimately supports denial, gives future boards, future legislators, and the public a record to build on. A board that deadlocks without full public explanation leaves only the bare vote count, three to three, denied, for history to work with, a pattern of institutional opacity

this book has now traced from the clemency board to the shield laws protecting Idaho's shooters to the state's own initial public statements after Creech's failed execution.

What the State Learned, and What It Refused to Learn

Idaho's Department of Correction, faced with the failure in F-Block on February 28, 2024, drew a narrow and technical lesson: peripheral IV access is unreliable in some subset of cases, so the state should either change its venous access technique or change its method entirely. That is the lesson reflected in both the deep-central-vein protocol change attempted for the November 2024 date and, more decisively, in House Bill 37 itself.

There is a different lesson the state could have drawn — and did not. An institution that requires eight failed attempts at a man's veins before calling off his execution, that then tries again with a more invasive protocol on the same man eight months later, that builds a room with gun ports rather than reconsider whether it should be attempting to kill people at all, has not learned that killing is hard to do reliably. It has learned that reliability is the only value at stake. Chapter 6 shows exactly how reliable Idaho's chosen replacement actually is, using the fresh, well-documented record South Carolina produced between Idaho's vote and the day that law took effect. The short answer, which the rest of this book will support in detail, is: not reliable enough to justify anything the legislature said about it on the floor in March 2025.

The Longest-Serving Man in the Country

I noted earlier that Creech is the longest-serving death row prisoner in Idaho's history. It is worth being clear about how that ranks nationally. Creech's time under his current death sentence, imposed in 1983 for the killing of a fellow inmate, runs to more than forty years as of this writing, and if his earlier 1970s death sentence is counted as part of a continuous, if legally interrupted, relationship to Idaho's machinery of capital punishment, the figure runs closer to fifty.[22] Nationally, prisoners who

have spent more than four decades under sentence of death are rare but not unique to Idaho; several states, California and Florida prominent among them, hold prisoners whose sentences predate the birth of some of the corrections officers now assigned to guard them. What distinguishes Creech's case is not merely the length of the wait but the fact that Idaho actually attempted, and failed, to end it, leaving him in the singular position of a man who has now survived his own execution and continues, at seventy-five, to wait for a second attempt under an entirely different method than the one that failed the first time.

WHAT THE FEDERAL DEFENDERS MEANT BY "TRAUMA"

One phrase from Creech's attorneys' 2024 statement deserves more careful unpacking: their claim that Creech was "suffering from significant mental health issues because of the trauma he was subjected to when the state failed to execute him." Clinical literature on prisoners who have survived execution attempts, though limited by the rarity of the phenomenon, describes a specific and recognizable psychological injury: the experience of being prepared for death, restrained, and made to believe with total sincerity that one's life is about to end within minutes, followed by an abrupt and unexplained reprieve, produces symptoms that overlap substantially with acute trauma responses documented in survivors of other near-death experiences, hypervigilance, intrusive recollection, a diminished capacity to trust any subsequent assurance that a threat has passed.[23] Creech's attorneys were not describing an abstraction. They were describing a man who had been walked, by the state's own hour-long account, to the edge of his death and then walked back, and who now lives with the knowledge that the state intends, at some undetermined future date, to walk him there again, this time with a rifle rather than a needle waiting at the end of the corridor.

Idaho spent 1.2 million dollars solving the wrong problem. Thomas Creech, and the seven other people on the state's row, are the ones who will find out what that mistake actually costs.

Notes

1. Associated Press (Rebecca Boone), contemporaneous reporting on Thomas Creech, 2023–2024; Death Penalty Information Center, "Idaho," state-by-state profile.

2. "Thomas Creech: Idaho execution fails after IV line couldn't be established," CNN, February 28, 2024; Death Penalty Information Center, "Clemency Request for 73-Year-Old Death Row Prisoner in Idaho Has Support of Trial Judge and Prosecutor," March 14, 2025. Creech's sentencing history for the Jensen killing runs through three dates and is reported inconsistently as a result. He was first sentenced to death in 1981; that sentence was set aside and he was resentenced to death in January 1983, the date the Idaho Department of Correction's own roster carries; and he was resentenced again in 1995 following federal habeas relief, which is why some court records, including the Idaho Supreme Court's 2024 opinion in *Creech v. State*, describe him as "sentenced to death in 1995." This book uses 1983 throughout, following IDOC's roster, and treats the 1995 proceeding as a resentencing on the same conviction rather than a new sentence.

3. "Idaho delays execution of serial killer Thomas Creech after failed lethal injection attempts," CBS News, February 28, 2024 (citing the Ada County Prosecutor's Office); "Judge postpones execution of serial killer Thomas Creech months after he survived a botched execution attempt," CNN, November 9, 2024.

4. "Commission of Pardons and Parole denies Creech a commutation recommendation," Idaho Reports, January 29, 2024 (quoting the U.S. Supreme Court's 1993 findings on the number of Creech's victims); "Serial Killer Thomas Eugene Creech Execution Halted After IV Failure," Forbes, February 28, 2024.

5. "Commission of Pardons and Parole denies Creech a commutation recommendation," Idaho Reports, January 29, 2024 (evidence linking Creech to eleven deaths; five murder convictions).

6. "Idaho parole board denies Thomas Creech's petition for clemency hearing," KTVB, October 29, 2024 (San Bernardino County cold-case investigation into the 1974 murder of Daniel Walker); "Thomas Creech, Idaho's longest serving death row inmate denied clemency," KMVT/KSVT, January 30, 2024.

7. "Commission of Pardons and Parole denies Creech a commutation recommendation," Idaho Reports, January 29, 2024; "Idaho Commission of Pardons and Parole denies death row inmate's commutation recommendation," Idaho Capital Sun, January 30, 2024.

8. "'There has been a real loss of confidence and support': Experts weigh in on death penalty in Idaho," KTVB, April 25, 2024 (quoting former prosecutor Jim Harris); see also Death Penalty Information Center, "Idaho Parole Board Grants Clemency Hearing for 73-Year-Old Death Row Prisoner Facing Execution," March 14, 2025 (quoting Harris).

9. "Idaho Commission of Pardons and Parole denies death row inmate's commutation recommendation," Idaho Capital Sun, January 30, 2024; Idaho Department of Correction, "Execution updates," idoc.idaho.gov.

10. Idaho Department of Correction, "Execution updates," idoc.idaho.gov; "Thomas Creech: Idaho execution fails after IV line couldn't be established," CNN, February 28, 2024.

11. Idaho Department of Correction, "Execution updates," idoc.idaho.gov (statement of Director Josh Tewalt, February 28, 2024).

12. IDOC, "Execution updates."

13. Idaho Department of Correction, "Execution updates," idoc.idaho.gov (operational notices ahead of the February 28, 2024 execution date).

14. Idaho Department of Correction, "IDOC Serves Death Warrant to Thomas Creech," October 16, 2024; "State of Idaho Schedules New Date for the Execution of Thomas Creech," KPVI, October 16, 2024.

15. "New death warrant served for Thomas Creech after failed execution in February," KTVB, October 16, 2024.

16. KTVB, October 16, 2024 (quoting the statement of the Federal Defender Services of Idaho).

17. "Judge postpones execution of serial killer Thomas Creech months after he survived a botched execution attempt," CNN, November 9, 2024; Kevin Fixler, "Idaho Supreme Court denies death row prisoner's appeal. Federal stay of execution ordered," Idaho Statesman, November 6, 2024; Death Penalty Information Center, "Idaho: Federal Judge Grants Stay of Execution for Thomas Creech," 2024 (Judge G. Murray Snow's remarks at the November 5 hearing and his written stay of November 6). On the Idaho Supreme Court's subsequent ruling, see *Creech v. State*, Docket No. 52327 (Idaho, November 27, 2024) (holding that a second execution attempt violates neither the Double Jeopardy Clause nor the Eighth Amendment).

18. This account of the 2014 Clayton Lockett execution in Oklahoma reflects contemporaneous Associated Press reporting.

19. This account of the 2018 Doyle Hamm execution attempt in Alabama reflects contemporaneous Associated Press reporting.

20. This account of the 2022 Alan Miller execution attempt in Alabama reflects contemporaneous Associated Press reporting.

21. This account of Kenneth Smith's 2022 execution attempt in Alabama reflects contemporaneous Associated Press reporting; see also the discussion of Smith's subsequent 2024 nitrogen execution in the Introduction.

22. Death Penalty Information Center, "Clemency Request for 73-Year-Old Death Row Prisoner in Idaho Has Support of Trial Judge and Prosecutor," March 14, 2025 ("sentenced to death in 1981").

23. General clinical literature on acute trauma responses in survivors of near-death experiences; see also "New death warrant served for Thomas Creech after failed execution in February," KTVB, October 16, 2024 (Federal Defender Services of Idaho statement on Creech's mental-health deterioration).

Chapter 3

The Legislature Reaches for the Trigger

* * *

Laws do not arrive fully formed. Idaho's turn to the firing squad was never a single decision made in a single session, but the last step in a multi-year escalation, each step justified by the step before it, each one making the next easier to vote for.

From Alternative to Primary

In 2023, the Idaho legislature passed a bill authorizing the firing squad as an alternative method of execution, available only if lethal injection proved unavailable.[1] The framing at the time was explicitly modest. Lawmakers were not, in 2023, arguing that the firing squad was a superior method on its own merits. They were closing a gap: Idaho had a death penalty statute and eight people sentenced to die under it, and no reliable way, given the pharmaceutical supply problems described in the previous chapter, to actually carry out that sentence. The firing squad was pitched as a backstop, a method the state could fall back on if its primary tool broke, in the same way a hospital might keep a generator in case the power grid fails.

The 2024 failure with Thomas Creech changed the political math entirely. A backstop that has never been tested is easy to authorize with a light touch, framed as a hypothetical contingency. A backstop that the state has just needed and, notably, did not use, because it had not yet built a chamber capable of deploying it, becomes something else: evidence, wielded on the floor of the legislature, that the primary method has already failed and the fallback should become the plan. House Bill 37, introduced in January 2025 with sixteen Republican co-sponsors, did exactly that.[2] It did not add the firing squad to Idaho's menu of methods. It inverted the menu, making the firing squad Idaho's default choice and lethal injection the fallback, the mirror image of where the law had stood eighteen months earlier.

The vote counts deserve to be stated precisely, because the near-unanimity matters. The House passed the bill 58 to 11 on February 6, 2025. The Senate passed it 28 to 7 on March 5.[3] Only three Republican legislators across both chambers broke from their caucus to vote no, joining all fifteen Democratic legislators in the Senate and House who opposed it. Governor Little signed the bill on March 12, 2025, setting a July 1, 2026 effective date, more than fifteen months out, explicitly to give the Department of Correction time to build the chamber described in Chapter 1 and to recruit and train a shooting team.

The Floor Debate

Representative Bruce Skaug of Nampa, the bill's chief sponsor, framed the choice in terms of failure rates: lethal injection, he argued, carried something like a six or seven percent failure rate, citing Creech's case as exhibit one. "We needed something that was sure and humane," Skaug said, "and firing squad is humane because it is sudden, it is quick, and it is certain."[4] Three adjectives — sudden, quick, certain — are offered as though they are synonyms, as though speed alone guarantees the other two qualities.

Other legislators went further into the register of mercy. Senator Brian Lenney called death by firing squad "an act of mercy."[5] This is not

a phrase I can let pass without comment: "mercy" is not a word that belongs anywhere near a plan to fire three rifle rounds into a restrained human being's chest. But Lenney was not alone, and not every voice in that debate reached for comfortable language. Senator Doug Ricks of Rexburg, the bill's Senate co-sponsor, carried it on the floor on practical grounds. And at least one senator broke from the celebratory tone entirely. Senator Dan Foreman, addressing his colleagues directly, pushed back on the claim of instantaneity: "The claims that it's instantaneous. Well, yes, sometimes it is, sometimes it is not. And if you've ever seen that, I think you would change your mind on how you're about to vote."[6] Foreman, a combat veteran and retired police officer, was the only Senate Republican to vote no. His colleagues voted 28 to 7 anyway.

Senate Minority Leader Melissa Wintrow offered the debate's clearest dissent. "It's barbaric," she said, "and it unfortunately puts the optics of Idaho in a place that I don't think we care to be." She called the bill "a move backward."[7] Wintrow's objection and Foreman's warning were not fringe positions shouted down by an unhearing chamber. They were made on the floor, in public, by legislators who had access to the same information every reader of this book now has access to. The vote happened anyway. That is not a failure of information. It is a choice, made with eyes open, about what kind of certainty a state is willing to settle for when the alternative is admitting that it might not be able to kill people reliably at all.

A BISHOP'S WARNING, AND WHAT THE STATE DID WITH IT

Not every objection came from the legislative floor. Idaho's Catholic bishops spoke publicly against the bill as it moved through committee, warning, in comments to Catholic News Agency and elsewhere, against what one bishop called a "culture of death" that the state was choosing to entrench rather than abandon.[8] Governor Little's response, delivered in the same interview cycle, is worth quoting because of how little it engages the substance of the objection: "I have long made clear my

support of capital punishment. My signing of this bill is consistent with my support of the Idaho Legislature's actions in setting the policies around methods of execution in the state of Idaho."[9] That is not a rebuttal. It is a restatement of institutional momentum, a governor declining to argue the merits because the merits were never really the point. The point was that lethal injection had become logistically unreliable, the courts kept entertaining challenges to it, and the firing squad offered a method built from parts, rifles, bullets, trained shooters, that no pharmaceutical company could withhold and no drug shortage could interrupt.

A PARALLEL EXPANSION: CAPITAL PUNISHMENT FOR CHILD RAPE

House Bill 37 did not move through the legislature alone. In the same session, lawmakers advanced a second, related bill extending Idaho's death penalty to a new category of offense: what the statute terms "aggravated lewd conduct with a minor" under the age of twelve. That bill passed the Idaho House unanimously in March 2025 and the Senate by a vote of 30 to 5 later that month. Governor Little signed it March 27, 2025, with a July 1, 2025 effective date, a full year ahead of the firing squad law.[10]

I raise this here, in a book primarily about execution method, because the two laws are not unrelated developments that happened to share a legislative session. They are companion pieces. One law expands who can be sentenced to death in Idaho. The other builds and designates the method that will be used to kill them. Read together, they represent a legislature simultaneously widening the funnel and re-engineering the machine at the funnel's end.

The child-rape provision sits in direct tension with existing constitutional law. In *Kennedy v. Louisiana*, decided by the U.S. Supreme Court in 2008, the justices held 5 to 4 that the Eighth Amendment bars the death penalty for the rape of a child where the crime did not result, and was not intended to result, in the victim's death.[11] Idaho's legislators were not unaware of this precedent. Some framed the new law explicitly

as an invitation to the current Supreme Court to revisit *Kennedy*, wagering that a more conservative bench than the one that decided the case in 2008 might be willing to narrow or overturn it.[12] Whether that wager succeeds is a legal question well outside this book's scope. Suffice it to say, Idaho's legislature, in expanding the pool of people who might eventually face execution, chose that same session to finalize the method it intends to use on them. If the child-rape statute survives constitutional challenge or is used to secure guilty pleas and sentences under its shadow even before a court rules, the room described in Chapter 1 is the room those sentences will ultimately be carried out in.

SIXTEEN NAMES ON THE BILL

House Bill 37's sixteen co-sponsors are worth naming as a group, if not individually, because the number itself tells a story about how legislation like this actually moves through a state house. Sixteen co-sponsors on a bill's introduction is a substantial bloc in a chamber the size of Idaho's House — enough to signal to the rest of the caucus, before a single floor speech is given, that leadership considers the measure a priority worth whipping votes for rather than a fringe proposal to be quietly buried in committee. Bills with this level of co-sponsorship at introduction rarely fail in Idaho's current political environment, and House Bill 37's eventual 58 to 11 margin reflects, in that sense, less a persuasive floor debate changing minds and more a bill whose outcome was substantially locked in before the debate this chapter has described ever began.

I raise this because it bears on how readers should weigh the floor debate itself. This chapter has taken Representative Skaug's, Senator Lenney's, Senator Foreman's, and Senator Wintrow's floor statements seriously as genuine arguments rather than theater. I continue to believe that is the right way to read them. But it is also worth being clear-eyed about the structural context surrounding those statements: a bill introduced with sixteen co-sponsors, in a chamber where Republicans hold a commanding supermajority, was never going to be defeated by Senator Foreman's warning or Senator Wintrow's dissent, however

substantively serious those statements were. The floor debate quoted above was a genuine airing of the issues. It was not, by the time it occurred, a genuinely open contest over the bill's fate.

READING THE FLOOR DEBATE AS ARGUMENT, NOT THEATER

It is tempting, watching a bill pass by a 58 to 11 and 28 to 7 margin, to conclude that the floor debate was theater, a formality preceding a foregone conclusion. That reading lets the legislature off too easily. The debate was substantive. Representative Skaug's framing of the choice in terms of failure rates, discussed in Chapter 1, was a genuine argument, built on a real statistic, that a specific and identifiable audience found persuasive. Senator Lenney's description of the bullet as "an act of mercy" was a genuine theological and moral claim, however wrong I believe it to be, not a throwaway line. And Senator Foreman's warning, and Senator Wintrow's dissent, were genuine counterarguments, made by legislators with access to exactly the same information advocates were using, and made in public, on the record, before the vote.

What the debate shows is not an uninformed legislature stumbling into a bad law. It shows an informed legislature weighing a known, documented risk, the possibility that the firing squad would fail to kill quickly and painlessly in some non-trivial share of cases, against a competing value, the state's interest in being able to reliably carry out death sentences without depending on a pharmaceutical supply chain it cannot control. The legislature chose the latter value, by a lopsided margin, with the risk named clearly on the record beforehand. That is a more damning finding than incompetence would be. Incompetence can be corrected by better information. A considered choice, made with full information, to prioritize procedural reliability over the documented risk of a slow and conscious death, is a statement about what the state actually values, and no quantity of better information will change a value.

Who Spoke Against It, and Who Did Not

It is worth naming, more fully than the previous section allowed, exactly who stood publicly against House Bill 37, because opposition to a bill that passed by 58 to 11 and 28 to 7 can look, in retrospect, smaller and more marginal than it actually was. The bishops' objection, quoted above, rested on the state's obligation to protect life at every stage, a position consistent with longstanding Catholic teaching against capital punishment generally, articulated at the national level by the United States Conference of Catholic Bishops and reinforced by Pope Francis's 2018 revision of the Catechism explicitly declaring the death penalty inadmissible in all circumstances.[13] Idaho's bishops were not a fringe voice within their own tradition; they were applying settled doctrine to a specific piece of state legislation, and Governor Little's response, quoted above, did not engage that doctrine so much as restate his own settled political commitment to capital punishment, a commitment that predates and appears entirely unmoved by the specific method under discussion.

Democratic legislators in both chambers voted uniformly against the bill, a unanimity that is itself worth noting: in a state where Democrats hold a small enough minority that their votes rarely determine outcomes, a unified no vote functions less as a legislative strategy and more as a recorded moral position, a statement for the record regardless of the vote's practical effect.[14] Senator Wintrow's floor remarks, quoted above, were the most extensive public articulation of that position, but she was not alone in casting it, and the historical record deserves to reflect that the bill's near-unanimity among Republicans was matched by an equally uniform opposition among the chamber's small Democratic caucus, a polarization along party lines that is itself a data point about how thoroughly capital punishment policy in Idaho, as in much of the country, has become a matter of partisan identity rather than case-by-case moral reasoning.

A State Out of Step With the National Trend, and Exactly in Step With Its Own Electorate

House Bill 37 passed against a national backdrop that makes its lopsided margin look, at first glance, harder to explain. Nationally, public support for the death penalty has been falling steadily since 1994, when Gallup recorded eighty percent of Americans in favor. By October 2025, that figure had fallen to fifty-two percent, the lowest level in over fifty years, with opposition, at forty-four percent, higher than at any point since 1966.[15] The decline is sharpest among younger Americans: as of Gallup's 2025 polling, only forty-one percent of adults eighteen to thirty-four favored capital punishment, compared to sixty-two percent of adults over fifty-five. The same polling shows the issue has become sharply partisan in a way it was not a generation ago: eighty-two percent of Republicans favored the death penalty in 2025, essentially unchanged from 2000, while support among Democrats fell from fifty-six percent to just thirty-two percent over the same period, and support among independents fell by twenty-one points.

Idaho's legislature was not, however, voting against its own electorate's wishes. State-level polling compiled by the Public Religion Research Institute found Idaho among the small handful of states with the highest support for capital punishment's legality anywhere in the country, at seventy percent, trailing only Alaska and tied closely with Montana, South Dakota, and Wyoming.[16] Read alongside the national Gallup trend, this local data resolves what might otherwise look like a puzzle: House Bill 37 passed by a lopsided, near-unanimous Republican margin not because Idaho's legislature was defying its constituents' evolving views, but because Idaho's constituents, unlike the national electorate as a whole, had not meaningfully moved away from supporting the death penalty at all. The bill's sponsors were not taking a political risk. They were reflecting back to their own voters a preference those voters had already made clear, in a state where the erosion of support driving national polling numbers downward, concentrated heavily among younger voters and Democrats, describes a demographic

that carries comparatively little electoral weight in Idaho's own politics.

Who Objected, Beyond the Statehouse

The ACLU of Idaho offered one of the more pointed outside assessments of why the state moved when it did, attributing the shift to a combination of factors: the same declining national support for capital punishment just described, the well-documented difficulty in acquiring lethal injection drugs, and what the organization called the government's concern about the "optics" of a botched execution attempt.[17] The organization did not present the firing squad as a solution to any of these problems. "To be clear," the ACLU of Idaho said in a statement, "we at the ACLU of Idaho oppose all executions; there is no method that does not impose an intolerably high risk of cruel and unusual punishment."

Notice how closely this assessment tracks the diagnosis this chapter has already offered: an organization with no formal role in the legislative process, examining the same public record available to any legislator, arrived independently at the same diagnosis this book has offered, that the firing squad was adopted to manage a reputational and logistical problem rather than to solve a genuine humaneness deficit in the state's prior method.

The Cost Nobody Voted on Directly

One more thread from this legislative history deserves attention before this book moves into Part Two's close analysis of the firing squad's four broken promises. Nobody on the floor of the Idaho legislature cast a vote that said, explicitly, "I am voting to ask three trained law enforcement officers, whose names the state will legally shield, to fire rifles into a restrained human being at close range, and to accept whatever consequences that act has on their own psychological well-being." But that is, functionally, exactly what the 58 to 11 and 28 to 7 votes did. Chapter 11 takes up the recruitment and training protocol for Idaho's shooting team, and the moral injury data from the officers and

volunteers who have performed this role in Utah and South Carolina. For now, it is enough to flag that this cost exists, that it was foreseeable, and that it went essentially unmentioned in the public floor debate this chapter has just walked through. A legislature capable of naming, out loud, the risk that a bullet might miss a man's heart proved far less willing to name, out loud, what firing that bullet does to the person who pulls the trigger. That asymmetry, what gets named and what does not, will recur throughout this book, because it is one of the clearest signals available for identifying which costs a system has actually reckoned with and which costs it has simply chosen not to look at.

NOTES

1. Death Penalty Information Center, "2025 Roundup of Death Penalty Related Legislation," February 4, 2026; Death Penalty Information Center, "Idaho," state-by-state profile (accessed July 2026).

2. DPIC, "2025 Roundup," February 4, 2026; "Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method," DPIC, March 17, 2025.

3. Death Penalty Information Center, "Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method," March 17, 2025; Death Penalty Information Center, "The Death Penalty in 2025: Legislation" (year-end report, December 15, 2025).

4. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026 (quoting Rep. Bruce Skaug, R-Nampa).

5. Death Penalty Information Center, "Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method," March 17, 2025 (quoting Sen. Brian Lenney).

6. DPIC, March 17, 2025 (quoting Sen. Dan Foreman).

7. DPIC, March 17, 2025 (quoting Senate Minority Leader Melissa Wintrow).

8. Tyler Arnold, "Catholic bishop warns against 'culture of death' as Idaho backs firing squad executions," Catholic News Agency, March 13, 2025, as cited in Death Penalty Information Center, March 17, 2025.

9. DPIC, March 17, 2025 (quoting Gov. Brad Little's statement to Catholic News Agency).

10. "Idaho expands death penalty to child predators," Deseret News, April 2, 2025; Death Penalty Information Center, "2025 Roundup of Death Penalty Related Legislation," February 4, 2026 (House Bill 380 passed the House unanimously on March 17 and the Senate 30–5 on March 24; signed March 27; effective July

1, 2025).

11. *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

12. Death Penalty Information Center, "2025 Roundup of Death Penalty Related Legislation," February 4, 2026 (discussing comparable statutes in Florida, Tennessee, Arkansas, and Oklahoma, and their tension with *Kennedy v. Louisiana*).

13. United States Conference of Catholic Bishops, statements on capital punishment; Catechism of the Catholic Church §2267, as revised by Pope Francis, 2018.

14. Death Penalty Information Center, "Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method," March 17, 2025; "UPDATE: Governor Little signs bill allowing death penalty for child sex abusers," KMVT/KSVT, March 19, 2025 (uniform Democratic opposition).

15. Death Penalty Information Center, "Facts About the Death Penalty: New Public Opinion Poll Confirms Growing Disapproval of Death Penalty," November 2025, citing Gallup's October 2025 Crime survey; Gallup, "Americans Prefer Tempered Crime-Fighting Methods," November 2025.

16. PRRI, "Americans' Views on the Death Penalty," August 29, 2025.

17. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026 (quoting a statement from the ACLU of Idaho).

CHAPTER 4

A Short History of Shooting Prisoners

* * *

Every method of execution the modern state has invented was designed to help us look away. The gallows gave way to the electric chair. The chair gave way to the gas chamber. The chamber gave way to the needle. Each new machine arrived with the same promise — that this death would be cleaner than the last. Quieter. Faster. More medical. More humane. Each was, in its own way, a technology of concealment. Each was built to put distance between the citizen and the killing done in the citizen's name.

The firing squad hid nothing.

It is one of the oldest methods of execution still on the books in the United States, and it is the only one that has never pretended to be anything other than what it is. There is no current to obscure the moment of death. There is no gas to blame on chemistry. There is no drug to let us imagine the condemned drifting off to sleep. There is only a human being secured to a chair, a paper target pinned over the heart, and a line of other human beings ordered by the government to raise rifles and fire. The firing squad makes no argument that killing is gentle. It simply kills. That honesty — brutal, unadorned, impossible to misread

— is the reason the method has endured for more than four centuries. It is also the reason the state has spent most of that time trying to escape it.

Idaho did not invent this method. It inherited a lineage running four centuries deep, almost entirely confined, until 2025, to a single state with a particular theological history, and only recently exported to a second state for reasons that had nothing to do with theology and everything to do with the collapse of lethal injection this book has already documented. Understanding that lineage matters, because Idaho's legislature described the firing squad as though it were a fresh engineering solution to a modern supply-chain problem. It is not fresh. It is old, it carries a specific cultural memory, and the record it has produced across five decades is available for anyone willing to read it before voting.

This chapter tells that history, from the battlefields of early modern Europe, across the Atlantic with the armies that carried it, into a single American territory that made the method its own, and back out again, in the space of the fifteen months between Idaho's vote and the day its own law took effect, into a second state whose modern record supplies the evidence this book's later chapters will hold up against Idaho's promises.

A Soldier's Death

The firing squad was born with the gun itself. As firearms became standard military equipment across the fifteenth and sixteenth centuries, European armies reached for a punishment that matched the new weapon and the old need for discipline.[1]

Hanging was the death of the common criminal. Shooting became the death of the soldier.

The distinction mattered. A man executed by rifle fire died in uniform, before his fellow soldiers, killed by the very weapon he had been trained to carry. The execution was a lesson delivered to the living as much as a sentence carried out on the condemned — a reminder that the discipline binding the ranks reached all the way to the firing line. To

be shot rather than hanged was, in the strange arithmetic of military honor, a kind of recognition. The condemned remained a soldier to the end.

ACROSS THE ATLANTIC

By the eighteenth century, the practice had spread across the continent. Revolutionary governments used firing squads to erase their political enemies. Napoleon's armies used them to punish deserters and spies. Through the long century of European warfare that followed, the image of a condemned man standing before a row of leveled rifles became one of the most familiar pictures of state power on earth.[2]

No one fixed that image more permanently than Francisco Goya. His painting *The Third of May 1808*, completed in 1814, shows a cluster of Madrid citizens gunned down by Napoleon's soldiers during the Peninsular War.[3]

Goya did not paint a victory. He painted the terror — the faceless mechanical line of the firing party on one side, the lit and outstretched arms of the doomed on the other. He turned the firing squad into what it has been ever since: a symbol of the naked authority of the state over the life of the individual. Everything the method's later defenders would try to soften, Goya had already refused to hide.

The firing squad came to North America the way it had crossed most of Europe: inside an army. During the American Revolution and the War of 1812, execution by shooting belonged almost entirely to the military. Its purpose was discipline, not civilian punishment. Deserters and spies faced the rifles. Ordinary criminals faced the rope.[4]

The Civil War changed the scale of it. Both the Union and the Confederacy shot men convicted of desertion, espionage, and serious military crimes, and they often did so before assembled troops so that the lesson could not be missed. Thousands of soldiers watched comrades die against a wall of rifle fire. The condemned man standing before the detail became a fixed feature of American military life.[5]

Civilian America wanted nothing to do with it. As the country moved west and built out its criminal codes, the states kept hanging their prisoners. The firing squad stayed in the army, where it had always been.

Then it found Utah.

The Utah Exception

In 1850, Congress created Utah Territory. The following year, the territorial legislature adopted a criminal code unlike anything else in the country. For a person convicted of a capital crime, Utah law offered a choice of deaths: shooting, hanging, or beheading.[6]

No other American jurisdiction had ever authorized execution by firing squad for civilians. None had put a rifle squad and a headsman on the same statutory menu. From its first years of self-government, Utah stood alone.

The third option is the one that reveals the theology beneath the law. In the nineteenth century, some early leaders of the Church of Jesus Christ of Latter-day Saints, most notably Brigham Young, preached a doctrine that scholars now generally call blood atonement: the belief that certain sins were so grave that Christ's atonement alone could not cover them, and that the sinner's own blood needed to be shed to make atonement possible.[7]

The statute itself did not name the doctrine. It did not have to. As taught in the 1850s, blood atonement carried cultural weight in territorial Utah, and part of its legacy was a lasting regional preference for execution methods that spill blood, as the firing squad does, over methods like hanging that do not. Church leaders would later reject the idea that civil executions should be read through the lens of blood atonement at all, and the modern LDS church has long since repudiated the doctrine outright; no serious contemporary source treats it as official church teaching. But the cultural residue outlasted the theology. It shows up directly, decades later, in the words of the men Utah itself would put to death by firing squad.

No prisoner ever chose the axe. Beheading was dropped from the code in 1888, unused.[8]

The choice narrowed to two: the rope or the rifle.

For more than a century afterward, the firing squad and Utah were nearly synonymous. Elsewhere, the country was busy modernizing its machinery of death. The electric chair spread through the East as the humane successor to the gallows. The gas chamber followed in the West. Both were sold as progress — cleaner, more scientific, more merciful than anything that had come before. Shooting a man began to look like a relic of the frontier, a piece of Old West justice the rest of America had outgrown.[9] Utah kept it anyway.

The procedure settled into a form that changed little across the decades. The condemned was secured to a chair. A target was fixed over the heart. A team of marksmen fired together on command. And according to a tradition that clung to the method wherever it was practiced, one rifle was loaded with a blank so that no member of the squad could ever be certain his was the hand that killed. Historians still debate whether that mercy was real or merely a story the executioners told themselves. What is clear is why the tradition existed at all. Even the most honest method of killing needed some small fiction to let its participants live with what they had done.

WHAT THE COURT ALLOWED

The firing squad also gave the United States Supreme Court its first occasion to rule on how a state may kill.

In 1877, a Utah man named Wallace Wilkerson was sentenced to be shot for murder. He argued that death by firing squad was cruel and unusual punishment, forbidden by the Constitution. In *Wilkerson v. Utah*, argued and decided in the Court's 1878 term, the Court disagreed.[10]

It upheld the rifle squad and, in doing so, drew the line that has governed American execution law ever since. The Constitution, the Court reasoned, forbade only punishments of torture and lingering, deliberate cruelty — the drawing and quartering, the burning alive, the

disemboweling of an earlier age. A clean shot to the heart was none of these. Shooting a condemned prisoner was, in the eyes of the law, an ordinary and permissible way for a state to take a life.

It was the first time the Supreme Court had ever told the country that a particular method of execution was acceptable. The method it blessed was the firing squad. Every later argument about the chair, the chamber, and the needle would be built on the foundation laid in a case about a man shot in Utah.

There is a detail in that case the later citations almost never carry with them. Wilkerson was executed on May 16, 1879, in the yard of the Provo jail, seated on a chair about thirty feet from a shed where the shooters were concealed. He declined to be blindfolded and refused restraints, telling the marshal he intended to die like a man: looking his executioners in the eye. A white three-inch paper target was pinned over his heart. When he heard the end of the count, he stiffened in the chair, and the movement shifted the target. The rounds struck his arm and his torso and missed his heart. He leapt from the chair and screamed, "Oh, my God! My God! They've missed it!" Four doctors rushed to him. He bled to death on the ground of the jail yard. He took roughly twenty-seven minutes to die, in the open, in front of the sheriff and the doctors and everyone else the territory had invited to watch.[10]

Consider that the Supreme Court had declared, as a matter of constitutional law, that a shot to the heart was not torture and not lingering cruelty. But the man whose name is on that decision was shot through the arm and lay bleeding for nearly half an hour. The doctrine and the execution that produced it did not match on the very first day, and American law has been building on the doctrine and forgetting the execution ever since. Every promise this book examines was made on a foundation laid by a case in which the bullet missed.

The Method the Nation Forgot

By the middle of the twentieth century, most Americans had stopped thinking about firing squads at all. The electric chair dominated. Lethal

gas held much of the West. Shooting survived in Utah and almost nowhere else. To the rest of the country, it seemed a curiosity from the age of the pioneers, something that happened in old photographs, not in the modern republic.

The last man Utah shot before the whole system stopped was James W. Rodgers, executed in 1960. When capital punishment resumed sixteen years later, Utah would pick up almost exactly where it had left off.[11]

In 1972, the Supreme Court decided *Furman v. Georgia* and brought capital punishment in the United States to a halt.[12]

For four years, no one was executed anywhere in the country while the states rewrote their death penalty laws to satisfy the Court. In 1976, in *Gregg v. Georgia*, the Court approved the new statutes and cleared the way for executions to resume.[13]

The machinery of death, silent for most of a decade, began to turn again.

Since that moment, six people have been executed by firing squad in the United States before Idaho's own law took effect: three in Utah, three in South Carolina.[14] All six stories add something the Idaho legislature either did not have, or chose not to weigh, when it voted to make the rifle the state's primary method of death.

"LET'S DO IT"

Gary Mark Gilmore had murdered two young men in Utah in the summer of 1976: Max Jensen, a gas station attendant, and Ben Bushnell, a motel manager, killed in back-to-back robberies.[15]

Convicted and sentenced to die, Gilmore did something almost no condemned prisoner does: he refused to fight. He waved off the appeals filed on his behalf, demanded that his sentence be carried out, and dared the state of Utah to do it. Under the law of the state that had never abandoned the rifle, he chose the firing squad.

His choice turned a forgotten method into front-page news around the world. A death that most Americans believed belonged to history

was suddenly scheduled for a morning in January. In the hours before dawn on January 17, 1977, a federal appeals court in Denver cleared the last legal obstacle.[16]

Gilmore was taken to an abandoned cannery behind Utah State Prison in Draper that served as the institution's death house. He was strapped to a chair. A wall of sandbags was stacked behind him to catch the rounds. A black hood was placed over his head and a paper target pinned over his heart. Five volunteers — local police officers — stood concealed behind a screen, their rifles aimed through slots cut in the cloth. One of the five weapons, by the old tradition, was loaded with a blank.[17]

The warden read the order of the court aloud and asked the condemned man if he had any last words.

"Let's do it," Gilmore said.[18]

The volley struck him in the chest. He was pronounced dead within minutes, a little after eight o'clock in the morning — the first person executed in the United States in nearly ten years.[19]

The execution became one of the defining events in the modern history of American punishment. Norman Mailer would spend more than a thousand pages on the case in *The Executioner's Song*, and the three flat words Gilmore offered the rifles would outlive nearly everyone who stood in that cannery.[20]

But Gilmore's case became a cultural fixation for a reason that runs deeper than the method, and that reason sets a template this chapter's later cases will repeat. What fascinated the country was not the rifles, but Gilmore's own apparent eagerness to die. A condemned man's selection of the firing squad, from that morning forward, would be read by the public as a kind of agency — a final assertion of control over an otherwise total loss of it. How much of that agency was real, and how much was a choice between two feared deaths that the condemned man had no hand in creating, is a question this book takes up directly in a later chapter on the myth of free choice.

TAYLOR AND GARDNER

Nineteen years passed before Utah shot another man. John Albert Taylor, executed in 1996, chose the firing squad explicitly and explained the choice in terms that shifted depending on the audience. To some reporters, he framed it as protest, saying he wanted to make a public statement that the state was sanctioning killing by forcing it to use the plainest method available. To others, later, he gave a more visceral reason: he did not want to, in his own words, flop around like a dying fish, the image he used to describe his fear of a botched lethal injection.[21]

The first explanation shows a condemned man using his own death as an act of political communication aimed at an audience beyond the execution chamber. The second shows a man choosing between two feared deaths and picking the one whose horror he found more dignified, less gruesome, and less of a spectacle.

Fourteen years after that, in 2010, Ronnie Lee Gardner became the third man Utah shot in the modern era, and the case most directly relevant to the theological thread traced above. Gardner said publicly that he preferred the firing squad because of his Mormon heritage, invoking the same regional and religious memory that had written beheading into Utah's first territorial code a century and a half earlier. He also voiced a specific political grievance: he believed Utah lawmakers were trying to phase out the firing squad, against the actual preference of much of the Utah public, because of embarrassment over the state's image heading into the 2002 Winter Olympics, when international media attention made Utah self-conscious about a method many outsiders regarded as uniquely brutal.[22]

Gardner's execution held the record as the most recent firing squad death in America for fifteen years, until South Carolina broke it in 2025.

THE CONFEDERACY'S LEDGER

One further historical thread deserves mention before we turn to South

Carolina's modern history, because South Carolina's own relationship to the firing squad did not begin with a 2021 statute. The firing squad's heaviest use in American history occurred not in any of the five states this book profiles but across the Civil War, when both Union and Confederate armies executed deserters and mutineers by firing squad in numbers that dwarf the modern era's entire six-execution total many times over — hundreds of documented military executions on each side.[23]

South Carolina, as the state where the Confederacy's secession began, carries a particular historical relationship to that military tradition, one this book does not have the space to explore in full but that is worth naming as part of the same cultural undercurrent this chapter has already traced through Utah's territorial code.

I raise this not to draw a direct causal line between Civil War military discipline and a 2021 state statute, which would overstate what the historical record can support. I raise it because it underscores a point this chapter has made from a different angle: the firing squad is not a modern invention being tested for the first time. It is one of the oldest continuously available methods of state and military killing in American history, deployed across wildly different institutional contexts — military and civilian, wartime and peacetime — for purposes ranging from discipline to capital punishment. That long history has produced, across all those contexts, the same basic and recurring problem this book's modern evidence documents: a method that looks certain on paper but is not in the actual moment of execution, subject to human hands and human nerves.

Utah's Own Retreat — and Return

Utah's relationship with the firing squad has not been a straight line, and the zigzag is worth tracing because it previews a pattern of legislative reversal this book will document again in Idaho. In 2004, Utah's legislature eliminated the open choice of the firing squad for newly

sentenced prisoners, allowing it to remain available only to the small number of men, including Ronnie Lee Gardner, who had already selected it under the older rule before the change took effect. The 2004 elimination was driven substantially by the same image-consciousness Gardner himself later complained about: lawmakers worried that a method widely perceived as uniquely brutal was drawing outsized, unflattering national attention to Utah, particularly with the 2002 Winter Olympics having recently placed the state under an unusually bright media spotlight.[24]

That reluctance did not last. By 2015, with lethal injection drug shortages beginning to bite across the country, the same Utah legislature that had voted eleven years earlier to phase the firing squad out voted to restore it as an available backup method, usable if lethal injection drugs could not be obtained within thirty days of a scheduled execution.[25]

The reversal is instructive precisely because it shows that Utah's own lawmakers do not treat the firing squad's supposed brutality as a fixed, settled judgment. It is a judgment that bends, in both directions, according to whichever practical problem the state is trying to solve at a given moment: image management in 2004, drug-supply anxiety in 2015. Idaho's own escalation is not a new phenomenon in American capital punishment. It is the same pendulum that has been swinging in Utah for over twenty years, just swinging harder and faster now that more states are caught in the same drug-supply bind at the same time.

SOUTH CAROLINA'S DIFFERENT ROAD TO THE SAME METHOD

South Carolina's path to the firing squad had nothing to do with nineteenth-century theology. It had everything to do with the same pharmaceutical supply collapse that pushed Idaho toward the method, arriving on a different, harsher timeline. South Carolina added the firing squad as an execution option in 2021, alongside a law making the electric chair, rather than lethal injection, the state's default method if the condemned did not affirmatively choose otherwise.[26]

That framework — requiring a condemned person to actively select lethal injection, electrocution, or the firing squad — was challenged in court and eventually upheld: in July 2024, the South Carolina Supreme Court ruled that both the electric chair and the firing squad were constitutional, clearing the way for the state to resume executions after what had become a thirteen-year moratorium driven largely by the same lethal injection drug shortages afflicting Idaho.[27]

South Carolina's death row, unlike Idaho's, is large: roughly thirty prisoners at the time of the 2024 ruling, several of whom had already exhausted their appeals and were immediately eligible for execution dates.[28]

The state moved quickly. Freddie Eugene Owens was executed by lethal injection in September 2024, ending the moratorium. Richard Bernard Moore followed in November.[29]

Then, on March 7, 2025, Brad Sigmon became the first person executed by firing squad in the United States in fifteen years, choosing the method over lethal injection and the electric chair, his lawyers said, because of unresolved concerns about the state's lethal injection protocol and a reluctance to die in a chair the state had used, with documented complications, for more than a century.[30]

Just over a month later, Mikal Mahdi followed him, on April 11, 2025, making the same choice for related reasons.[31]

Seven months after that, on November 14, 2025, Stephen Corey Bryant became the third South Carolina prisoner and the sixth person in the modern American era to die by firing squad.[32]

Three executions in a single state within a single calendar year is, by the standards of this method's American history, an extraordinary acceleration. Utah produced three firing squad deaths across thirty-three years, from 1977 to 2010. South Carolina produced three in roughly eight months. That acceleration matters for the argument of this entire book because of when it happened relative to Idaho's own timeline. When the Idaho House passed House Bill 37 on February 6, 2025, and when the Idaho Senate passed it on March 5, not a single one of South

Carolina's modern firing squad executions had yet taken place. Brad Sigmon was shot on March 7, two days after the Senate vote and five days before Governor Little signed the bill into law. In that narrow sense, Idaho's legislature did vote in an evidentiary vacuum, one inherited from Gilmore and Taylor and Gardner — cases old enough to feel like history.

But Idaho's decision did not end at the vote. The statute did not take effect for another fifteen months, and across that window, the entire modern evidentiary record this method has generated became public: Sigmon's autopsy, then Mahdi's execution and the autopsy findings that followed it, reported by NPR, the Guardian, and the Death Penalty Information Center in May 2025, and finally Bryant's execution that November.[33]

Idaho enacted the firing squad before that evidence existed. It spent the next fifteen months building the chamber and training the shooters while that evidence accumulated in plain view, and it did not stop to reconsider. The autopsy findings were public, and undeniable, well before Idaho's law took effect on July 1, 2026.

FIVE STATES, FIVE DIFFERENT REASONS, ONE METHOD

It is worth pausing to note how differently each of the five states that currently authorize the firing squad arrived at that authorization, because the diversity of paths undercuts any suggestion that the method's spread reflects a shared, considered judgment about its merits. Utah's attachment is rooted in nineteenth-century theology and a regional cultural memory this chapter has described in detail. South Carolina's arrived through the collapse of its lethal injection supply chain and a statutory structure that defaults, absent a choice, to electrocution rather than the firing squad. Oklahoma's sits fourth in a hierarchy the state has shown no operational interest in actually using. Mississippi's is governed by a cost-efficiency clause. Idaho's, this book's central case, arrived through the specific, documented failure of a single execution and a legislature eager to ensure that failure could not recur.

Five states, five distinct historical and institutional pathways, and yet all five have converged on the same method — a fact that should trouble anyone tempted to read the firing squad's spread as evidence of some emerging, independently verified consensus about its humaneness. Convergent adoption by different routes is not the same thing as convergent validation by evidence. It is, more often, a sign that a single available option, the firing squad, sits at the intersection of several different states' independent problems — drug supply for some, image management for others, cost for still others — without any of those states having actually solved the specific problem: an unacceptably high rate of documented, autopsied failure to perform as promised.

Why This History Matters for What Follows

I have told this history in some detail, rather than simply gesturing at "past firing squad executions," because the specifics change the moral weight of Idaho's decision. If the only available data on the firing squad's reliability came from Gilmore's 1977 death or Gardner's in 2010 — cases separated from Idaho's 2025 vote by decades of medical, forensic, and procedural change — a legislature could plausibly claim it was voting on old, superseded information, the same way a state might reasonably distrust decades-old crash-test data before certifying a modern car. And in the narrow moment of the vote itself, that is close to the situation Idaho's legislature faced: when the House and Senate passed House Bill 37 in February and March of 2025, the modern South Carolina record did not yet exist. But Idaho's decision was not confined to that moment. The statute did not take effect for another fifteen months, and in that window, the most recent, most rigorously documented firing squad executions in American history unfolded in a neighboring jurisdiction, using essentially the same protocol structure — a target over the heart, a small team of shooters, a restrained chair — that Idaho itself would adopt. The state watched that record accumulate and readied its own chamber anyway.[34]

The Tradition That Waited

When Gary Gilmore chose to die before a line of rifles, he was not reviving a curiosity. He was stepping into a tradition more than four hundred years old — one that had traveled from the armies of early modern Europe to the battlefields of the American Civil War, taken root in a single western territory in 1851, and outlasted every cleaner machine the country built to replace it. Taylor and Gardner walked the same path he had cleared. So, in their own way, did Sigmon, Mahdi, and Bryant, two thousand miles from Utah, in a state whose reasons for reaching for the rifle had nothing to do with blood atonement and everything to do with supply chain issues.

That is the strangest fact about the firing squad. It did not survive because it was efficient. The chair was sold as more efficient. It did not survive because it was modern. The gas chamber and the needle were both sold as more modern. It survived because it was honest. When every other method promised to make killing look like something else — like electricity, like medicine, like sleep — the firing squad kept telling the truth. It admitted that an execution is a killing, done deliberately, by people, with a weapon, on the orders of the state.

For most of American history, that honesty was an embarrassment. The country wanted its executions quiet. It wanted its hands clean. The rifle refused to grant either. So the states reached again and again for a cleaner-looking machine. One by one, they watched the machines fail. The needle was the last of them. It has been failing in plain view — veins that collapse, executions that stretch for hours, a team that gives up after eight attempts and sends the condemned back to his cell still breathing.

And so, the honest death is coming back.

On July 1, 2026, a law took effect in Idaho that no American legislature had ever passed.[35]

Not the firing squad as a relic. Not the firing squad as a curiosity a condemned man might choose from a menu. The firing squad as the primary way the state intends to kill — the first execution method in the nation's history built on the gun by default. Idaho did not stumble into

this. It reached back four hundred years — past the needle, past the gas, past the chair, past Gilmore, past Taylor and Gardner, past Sigmon and Mahdi and Bryant, past the pioneers — and picked up the oldest honest death on purpose. Its defenders called it humane. They called it clean.

They were making a promise. Part Two of this book takes South Carolina's record and holds it up against the four promises Idaho's legislators made on the floor: that the bullet is certain, that it is humane, that it is honest, and that where a condemned person chooses it, the choice is free. Utah's history, the one this chapter has just told, supplies the cultural backdrop and the myth of the clean kill that made the firing squad feel, to Idaho's lawmakers, like a return to something proven and traditional rather than an untested gamble. South Carolina's history, produced in real time in the fifteen months between Idaho's vote and the day its law took effect, supplies the evidence that the myth does not hold. Chapters 6 through 9 take that evidence one promise at a time.

Notes

1. On the emergence of firearms as instruments of military punishment across the fifteenth and sixteenth centuries and the origins of execution by shooting as a distinctly military death, see standard histories of capital punishment; the association of shooting with military discipline (as against hanging for civilian crime) is treated throughout the literature. See, e.g., the historical overview in the Death Penalty Information Center, "Methods of Execution," <https://deathpenaltyinfo.org.

2. On the spread of military firing squads through revolutionary and Napoleonic Europe, see general histories of eighteenth- and nineteenth-century European warfare and military justice.

3. Francisco Goya, *The Third of May 1808* (*El tres de mayo de 1808 en Madrid*), completed 1814, Museo Nacional del Prado, Madrid. The painting depicts the execution of Madrid citizens by French troops on May 3, 1808, during the Peninsular War.

4. On the near-exclusively military use of the firing squad during the American Revolution and the War of 1812, see histories of early American military justice.

5. On the expanded use of execution by shooting for desertion, espionage, and military crimes by both the Union and Confederate armies during the Civil War, and on public military executions as instruments of discipline, see Civil War military-justice scholarship.

6. Utah Territory was organized by act of Congress in 1850; its early criminal code (1851) authorized execution by shooting, hanging, or beheading, making Utah the first American jurisdiction to permit death by firing squad for civilian offenders. See "Capital Punishment," *Utah History Encyclopedia* (L. Kay Gillespie), https://www.uen.org/anu_history_encyclopedia/c/CAPITAL_PUNISHMENT.shtml. The Supreme Court in *Wilkerson v. Utah*, 99 U.S. 130 (1878), described the governing territorial statute (passed March 6, 1852) as permitting a person convicted of a capital offense to "suffer death by being shot, hanged, or beheaded," at the condemned's option among those modes.

7. This account of nineteenth-century blood atonement teaching within the early Church of Jesus Christ of Latter-day Saints, including its association with Brigham Young, reflects general historical scholarship; see Peggy Fletcher Stack, "Is 'blood atonement' behind Utah firing squad request?," *Salt Lake Tribune*/Scripps News, June 4, 2010; and "Capital Punishment in Utah," which notes that the territory introduced beheading in 1851 "in accordance with the Mormon concept of blood atonement at the time." The statute did not codify the doctrine by name, and later church leaders rejected the application of blood atonement to civil executions; the modern LDS church does not treat the doctrine as current teaching.

8. No prisoner ever selected beheading, and the option was removed from Utah law in 1888. See sources cited at notes 6–7.

9. On the twentieth-century spread of the electric chair and gas chamber as purportedly more modern and humane successors to hanging, and the resulting perception of the firing squad as a frontier relic, see general histories of American execution methods.

10. *Wilkerson v. Utah*, 99 U.S. 130 (1878). The Court upheld execution by firing squad against an Eighth Amendment challenge, holding that the constitutional prohibition on cruel and unusual punishments reached only torture and comparable deliberate cruelty, not death by shooting. It was the first Supreme Court decision to pass on the constitutionality of a specific method of execution. Opinion available at Justia, https://supreme.justia.com/cases/federal/us/99/130/. The account of Wilkerson's own execution on May 16, 1879, including his refusal of the blindfold and restraints, the rounds that struck his arm and torso rather than his heart, and the roughly twenty-seven minutes he took to die, is drawn from contemporaneous Utah newspaper reporting of the execution and from later histories of capital punishment in Utah; see L. Kay Gillespie, *The Unforgiven: Utah's Executed Men* (Signature Books, 1997), pp. 47–49; and Hal Schindler, "Taylor's Death Was Quick . . . But Some Weren't So Lucky," *Salt Lake Tribune*, January 28, 1996. Some accounts give approximately fifteen minutes; the official record states twenty-seven. The opinion was handed down on March 17, 1879, but is conventionally cited to the 1878 term of the United States Reports.

11. General historical record of executions in Utah; Death Penalty Information Center, "Utah," state-by-state profile (James W. Rodgers, executed 1960, as the last pre-*Furman* firing squad execution).

12. *Furman v. Georgia*, 408 U.S. 238 (1972). The decision effectively suspended capital punishment in the United States by finding then-existing death penalty statutes

unconstitutional as applied.

13. *Gregg v. Georgia*, 428 U.S. 153 (1976). The Court upheld revised death penalty statutes with guided-discretion sentencing, permitting executions to resume.

14. "Utah Firing Squad Executes Convicted Murderer," CBS News, June 18, 2010; "US inmate set to die by firing squad, which states allow this?," *The Hill*, March 7, 2025; Death Penalty Information Center, "Utah," state-by-state profile.

15. On Gilmore's crimes and victims (Max Jensen and Ben Bushnell), see "Deseret News archives: Gary Gilmore firing squad death in 1977 was first U.S. execution in 4 decades," *Deseret News* (Jan. 17, 2025), https://www.deseret.com; and "Gary Gilmore," *Encyclopædia Britannica*, https://www.britannica.com/biography/Gary-Gilmore.

16. On the pre-dawn ruling by the U.S. Court of Appeals in Denver clearing the way for the execution, see BBC "On This Day"/press accounts of January 17, 1977.

17. On the setting (a converted cannery behind Utah State Prison at Draper), the sandbags, the hood and target, the five volunteer officers firing from behind a screen, and the single blank cartridge, see the contemporaneous account reprinted in "Gilmore executed by firing squad," and CrimeArchives, "Gary Gilmore: Execution," https://www.crimearchives.net/1976_gilmore/html/execution.html. Note that Mikal Gilmore, in *Shot in the Heart*, wrote that on inspecting his brother's execution shirt he counted five bullet holes rather than four, and concluded that "the state of Utah, apparently, had taken no chances on the morning that it put my brother to death."

18. Gilmore's final words, "Let's do it," are among the most widely documented last statements in American execution history. See *Deseret News* (note 15); "Gary Gilmore executed," HISTORY, https://www.history.com/this-day-in-history/anuary-17/the-execution-of-gary-gilmore.

19. On Gilmore as the first person executed in the United States following *Gregg* — ending a de facto moratorium of nearly a decade — see Britannica (note 15) and HISTORY (note 18). Time of death is variously reported at approximately 8:06–8:07 a.m.

20. Norman Mailer, *The Executioner's Song* (1979), the Pulitzer Prize–winning account of the Gilmore case.

21. John Albert Taylor's stated reasons for choosing the firing squad, as reported by *The New York Times* (1996) and by Giles Whittell, "Utah death row inmate Ronnie Lee Gardner elects to die by firing squad," *The Times* (London), April 24, 2010.

22. "Utah Firing Squad Executes Convicted Murderer," CBS News, June 18, 2010; "Ronnie Lee Gardner executed by firing squad in Utah," Associated Press, June 18, 2010 (Gardner's stated reasons, including his Mormon heritage and his objection tied to the 2002 Winter Olympics).

23. General historical scholarship on Civil War–era military executions by firing squad on both the Union and Confederate sides.

24. "Utah Firing Squad Executes Convicted Murderer," CBS News, June 18, 2010 (2004 Utah legislation eliminating the firing squad as an open option, subject to a grandfather clause for prisoners who had already selected it).

25. Death Penalty Information Center, "Utah," state-by-state profile; contemporaneous Associated Press reporting on Utah's March 2015 restoration of the firing squad as a contingency method where lethal injection drugs cannot be obtained.

26. Death Penalty Information Center, "South Carolina," state-by-state profile; "US inmate set to die by firing squad, which states allow this?," *The Hill*, March 7, 2025 (South Carolina's 2021 statute adding the firing squad and making the electric chair the statutory default).

27. "S.C. inmate's firing squad execution was 'botched,' with bullets mostly missing his heart, lawyers say," NBC News, May 9, 2025 (July 2024 South Carolina Supreme Court ruling upholding the firing squad); Death Penalty Information Center, "Lawyers Raise Concern as Autopsy Finds South Carolina's Second Firing Squad Execution May Have Been Botched," May 13, 2025.

28. "SC firing squad 'largely missed' cop killer Mikal Mahdi's heart, attorneys say autopsy shows," *The Post and Courier*, May 2025 (the South Carolina Supreme Court settled the method challenges on July 31, 2024); Death Penalty Information Center, "South Carolina," state-by-state profile.

29. "South Carolina executes second man by firing squad in 5 weeks," PBS NewsHour (Associated Press), April 11, 2025; Death Penalty Information Center, "South Carolina," state-by-state profile (Freddie Owens, September 2024; Richard Moore, November 2024).

30. "South Carolina is set to execute another inmate by firing squad, one month after first such execution in decades," CBS News, April 9, 2025; "South Carolina executes second man by firing squad in 5 weeks," PBS NewsHour (Associated Press), April 11, 2025.

31. "South Carolina executes second man by firing squad in 5 weeks," PBS NewsHour (Associated Press), April 11, 2025; "South Carolina death row inmate executed by firing squad," Live5News/WCSC, April 11–12, 2025.

32. "South Carolina executes third person by firing squad this year," South Carolina Public Radio, November 14, 2025 (the execution of Stephen Corey Bryant).

33. Chiara Eisner, "A firing squad tried to shoot a prisoner in the heart. They missed, autopsy indicates," NPR, May 8, 2025; Sam Levin, "Revealed: Autopsy suggests South Carolina botched firing squad execution," *The Guardian*, May 8, 2025; as cited in Death Penalty Information Center, "Lawyers Raise Concern as Autopsy Finds South Carolina's Second Firing Squad Execution May Have Been Botched," May 13, 2025.

34. See notes 27 and 33.

35. Idaho House Bill 37, signed by Governor Brad Little on March 12, 2025, made the firing squad Idaho's primary method of execution effective July 1, 2026 — making Idaho the first state in the nation to designate the firing squad as its primary method, with lethal injection retained only as a fallback where a firing squad is unavailable. See Death Penalty Information Center, "Idaho Governor

Signs Legislation Authorizing Firing Squad as State's Primary Execution Method" (Mar. 17, 2025), https://deathpenaltyinfo.org; "These new laws are set to go into effect in Idaho on July 1," *Idaho Capital Sun* (June 30, 2026), <https://idahocapitalsun.com. On Idaho's failed February 2024 lethal-injection attempt on Thomas Creech — called off after the execution team could not establish an intravenous line after roughly eight attempts — see contemporaneous reporting.

CHAPTER 5

The Six

* * *

Since the Supreme Court cleared the way for executions to resume in 1976, six men have been shot to death by American states. Three died in Utah across thirty-three years. Three died in South Carolina across eight months. That is the whole modern record, small enough to set down in full and, so far as I have been able to determine, never before set down in full in one place.

Each man gets the same account in the same order. Who he was. Whether he chose, and what the choosing cost him. What the room held. What happened when they fired. What the record showed afterward. And at the end of each, what we do not know — because the shape of our ignorance is itself evidence, and because a legislature that voted to make this the primary way Idaho kills its prisoners deserved to see how thin the file is.

The entries are uneven. We know more about Gary Gilmore than about John Albert Taylor and Ronnie Lee Gardner combined because a novelist showed up for Gilmore. We know more about Mikal Mahdi than about Stephen Bryant because Mahdi's lawyers went and got the paperwork and won part of the fight for it. The depth of the public

record on the firing squad tracks fame. It tracks litigation. It does not track significance, and it does not track what a legislature would need in order to vote responsibly. That is the same argument these pages make about the state's candor, turned back on my own sources.

One more thing before the six. Three of these men waived their appeals or came close to it, and all three chose the rifle. Two of the three Utah cases were what the courts call volunteers. That pattern is not incidental to the method. It is the method's oldest and most persistent feature, and Part Two takes it up as the fourth promise.

Gary Mark Gilmore

JANUARY 17, 1977 — UTAH STATE PRISON, DRAPER, UT

Gilmore was thirty-six. He was born in Texas in December 1940, the second of four sons of Frank and Bessie Gilmore. His father was a drifter and a petty criminal who beat his children. The family moved constantly through the western states. By his mid-thirties, Gilmore had spent most of his life in institutions of one kind or another and had been out of prison a matter of months when he killed two men.[1]

In July 1976, he murdered Max Jensen, a gas station attendant, and Ben Bushnell, a motel manager, in back-to-back robberies in Utah County. Both were young. Both had families. Neither resisted him.[2]

He was tried for Bushnell's murder, convicted, and sentenced to death in October 1976. The Jensen case never went to trial. Then he did the thing that made him famous. He refused to fight.

He waved off the appeals filed on his behalf. He told the Utah Board of Pardons that he took the state at its word: the people of Utah seemed to want the death penalty but not executions, and when the sentence came down, he had taken it literally and seriously.[3] He told the organizations trying to save him to leave him alone. This was his life, he said, and this was his death.[4]

Utah gave him a choice of two. State law at the time offered hanging or shooting. He said he would rather be shot because he believed a hanging could be botched.[5]

The first man executed by firing squad in the modern era chose the rifle to avoid a botched death by another method. Idaho's legislators, forty-nine years later, would describe the firing squad as the answer to botched executions. From the first modern case forward, the rifle has been sold as the cure for the last method's failures. On the available record it has never been chosen on its own merits by anyone. It has always been the least feared item on a menu of feared things.

The fight over his death. Because Gilmore would not appeal, others tried to appeal for him. The American Civil Liberties Union and the National Association for the Advancement of Colored People sought to intervene, on the theory that the first execution after the moratorium would open the way for hundreds more.[6] His mother, Bessie Gilmore, petitioned as his next friend: a legal device that lets one person sue on behalf of another who cannot act for himself.

The Supreme Court rejected her petition on December 13, 1976. It held that Gilmore had made a knowing and intelligent waiver of his federal rights and that next-friend standing was therefore unavailable, since he was competent and represented.[7] The vote was five to four.

The final round came the night before. A federal district judge in Salt Lake City, Willis Ritter, granted a stay roughly seven hours before the scheduled time. The Utah attorney general's office flew to Denver overnight. The Tenth Circuit set the stay aside in the early morning. The Supreme Court declined to intervene. By 7:30 a.m., the last obstacle was gone.[8]

The room. Gilmore spent his last night in the prison mess hall at his own request, with friends and family, awake. His last meal was steak, potatoes, milk, and coffee. He drank the milk and the coffee and left the rest.[9]

He was taken to an abandoned cannery behind the prison that served as the institution's death house. He was strapped to a chair. A wall of

sandbags was stacked behind him to catch the rounds. A black hood was placed over his head and a paper target was pinned over his heart. Five volunteers, local law enforcement officers, stood concealed behind a screen with their rifles aimed through slots cut in the cloth. One of the five weapons, by the old tradition, held a blank.[10]

That last detail did not survive contact with the evidence. Gilmore's younger brother Mikal, a journalist, later examined the clothing his brother had been wearing. He counted five holes in the shirt. Utah's tradition called for four live rounds and one blank. Mikal Gilmore wrote that the state had apparently taken no chances on the morning it put his brother to death.[11]

The blank-round tradition is four hundred years old, and it is extended not to the condemned but to the men who shoot him, so that none of them need ever be certain his was the hand that killed. In the first execution of the modern era, in the state that had kept the method alive longer than anyone, the record of the body suggests that mercy was not extended at all. South Carolina removed the blank openly. Idaho removed it openly. Utah, if Mikal Gilmore counted correctly, removed it quietly and told the shooters otherwise.[12]

The warden read the order of the court aloud and asked the condemned man if he had anything to say.

"Let's do it," Gilmore said.[13]

The killing. The volley struck him in the chest. Contemporaneous accounts report four rounds through the heart. Roughly twenty witnesses were present. The official time of death was recorded as 8:07 a.m., though wire copy filed that morning gives 8:06.[14] A prison official, standing among reporters in another part of the building, took a call from the warden and told them the order of the court had been carried out.

Gilmore had asked that his organs be donated. Within hours of his death, two people received his corneas. His body was autopsied and cremated the same day, and his ashes were scattered from an airplane over Utah.[15] Two of the six men in these pages tried to give their bodies

away as they were dying. It is the only thing Gary Gilmore and Mikal Mahdi have in common.

Gilmore's uncle Vern Damico claimed the body and told reporters that his nephew had gotten his wish and had died with dignity.[16] The Utah attorney general said justice had been served and added that he was sorrier about the two victims' families than about Gilmore's death. The ACLU's capital punishment director accused him publicly of complicity in a judicial homicide.[17]

Norman Mailer would spend more than a thousand pages on the case in *The Executioner's Song*.[18] The three flat words Gilmore offered the rifles have outlived nearly everyone who stood in that cannery. They have been printed on shirts. They were, for a period, an advertising slogan.

What this case adds. Gilmore establishes the template every later case repeats and the country has been misreading ever since. What fascinated America was not the rifles. It was his apparent eagerness to die. From that morning forward, a condemned man's selection of the firing squad would be read by the public as agency: a final assertion of control over a total loss of it. How much of that agency was real, and how much was a man choosing between two feared deaths he had no hand in creating, is the question Part Two takes up as the fourth promise. Gilmore is where it begins, and Gilmore is also where the answer is already visible, because his stated reason for choosing the rifle was fear of a rope.

What we do not know. Almost everything a modern reader would want. No published pathology report of the kind South Carolina produced in 2025 entered the public record. The claim that four rounds passed through the heart comes from contemporaneous reporting rather than from a released autopsy, and where exactly they struck is not a matter of public documentation. How long Gilmore remained conscious after the volley is unknown. In 1977 it was not a question anyone thought to ask, because the certainty of the method was assumed rather than tested. The most famous firing squad execution in American

history is among the least documented in the terms that matter here, and it is one of only two data points Utah's entire legislative memory rests on.

John Albert Taylor

JANUARY 26, 1996 — UTAH STATE PRISON, DRAPER, UT

Nineteen years passed before Utah shot another man.

John Albert Taylor was thirty-six. He was born in Ogden in 1959. His parents separated in his infancy. He moved repeatedly as a child, including to Colorado at nine, when he was told his father was dead. He said he had been raised in Florida, that he was abused there as a boy, and that he was using drugs by his teens. He had a Florida record for burglary and carrying a concealed weapon before he was twenty.[19]

In 1989, he raped eleven-year-old Charla Nicole King and strangled her with a telephone cord. He was convicted and sentenced to die.[20]

I am going to name that crime and not soften it. The argument here does not require its subjects to be sympathetic. It requires only that the state tell the truth about what it does to them.

The choice. A month before his execution, Taylor fired his lawyer and denounced lethal injection.[21] His path was closer to Gilmore's than to anyone else's in this group. Utah's second modern firing squad execution, like its first, was substantially a matter of a man declining to fight.

He gave three reasons for choosing the rifle, and they shifted depending on who was asking. He said the method would be costly to the state and embarrassing to it. He said it would dramatize his claim that what Utah was about to do to him was murder. And he said he feared "flipping around like a fish out of water" if they used a needle.[22]

The third is the one that carries the weight. The first two show a condemned man using his own death as political communication aimed past the walls of the chamber. The third shows a man choosing between

two feared deaths and picking the one whose horror he found more legible, more familiar, easier to picture in advance. That is the dynamic Part Two returns to under the heading of free choice, and it is the second time in two cases that a man chose the rifle to escape something else.

His last day. Taylor was Catholic. A priest, the Reverend Reyes Rodriquez, had baptized him the week before. He spent the day writing his will, eating pizza with an uncle, and discussing the afterlife with the priest. He complained that his stomach was turning over and drank antacid. A little more than an hour before he died, he sang hymns with Rodriquez and two of his attorneys, then bowed his head and wept while the priest read scripture to him. Rodriquez walked with him to the chamber.[23]

I want to be careful here, because it would be easy to make this sound like redemption and I do not know that it was. A man who raped and strangled a child was baptized eight days before the state shot him. What I know is that a priest sat with him, that this is the work I do, and that the record of the second modern firing squad execution in America contains a Catholic priest reading scripture to a weeping man an hour before five rifles were leveled at his heart. Idaho's legislature did not have that in front of it either.

One of the three witnesses Taylor invited was Beverly DeVoy, a freelance journalist who had corresponded with him for years. She believed his health had shaped his decision. He had an enlarged heart, bleeding ulcers, and swollen legs and feet.[24]

Set that beside the target. Utah pinned a white paper circle over an enlarged heart and treated the aiming point as sufficient. Nothing in any firing squad protocol I have read, Idaho's included, accounts for the fact that hearts differ in size, in position, and in the thickness of what surrounds them. The protocols specify the distance and the diameter of the target. They assume the organ underneath is standard issue.

The room. Roughly a hundred and fifty television crews came to Draper. Nine journalists were admitted as media witnesses.[25]

Taylor was already strapped into a black metal chair when the witnesses arrived just before midnight. His hands, feet, and neck were secured. A white target was fixed over his heart. Floodlights were aimed at him, bright enough that he could not see the men who would shoot him. Five anonymous marksmen stood twenty-three feet away with .30-30 deer rifles, the same type used on Gilmore in the same prison nineteen years earlier. They were law enforcement volunteers, paid three hundred dollars each. They fired through rectangular openings cut in a wall. One rifle, by tradition, held a blank.[26]

The warden and a deputy director approached and asked whether he had any last words.

"Yes, I do," Taylor answered. "I would just like to say for my family, for my friends, as the poem was written, 'Remember me, but let me go.'"[27]

The killing. Four bullets struck him. The shots came at approximately 12:04 a.m. He was pronounced dead at 12:07.[28]

Paul Murphy, a Salt Lake City television reporter in the witness room, described a very large man strapped to a chair whose eyes were moving rapidly around the room, with what Murphy read as a great deal of fear in them. After the volley, Murphy watched the body. "His hands squeezed up, went down, and came up and squeezed again," he said.[29] The chest was covered with blood. A doctor came in, cut holes in the hood, and checked the pupils.[30] Murphy also described the whole thing as a very short morality play in a single act, which is as good a summary of the state's intentions as any witness has produced.

Utah's attorney general, Jan Graham, told reporters afterward that the execution had been carried out without incident of any kind.[31]

Those two accounts are the argument in miniature. A witness saw a hand close, open, and close again. The state saw no incident of any kind. Both are describing the same three minutes. Neither is lying. They are using different standards for what counts as something happening, and the state's standard is the one that gets written into the press release, the protocol review, and the legislative record.

Afterward. While Taylor was waiting to die, legislation was introduced in the Utah House of Representatives to eliminate the firing squad.[32] The bill did not pass that session. Eight years later, a version of it did, and Utah restricted the method to men already sentenced under the old rule. In 2015, with the drug supply collapsing, the same legislature brought it back. That reversal is traced in the previous chapter's section on Utah's own retreat and return.

What we do not know. What the hands meant. No published autopsy established where the four rounds landed relative to the heart, whether the enlarged heart altered the wound path, or how long Taylor remained conscious. Murphy's account is the closest thing to a medical record that exists, and Murphy is a reporter describing movement he could see from behind glass at a distance in low light. Whether that movement was agonal reflex or a man still present in his body for some seconds after being shot has never been established, because nobody with the standing to establish it was asked to try.

Ronnie Lee Gardner

JUNE 18, 2010 — UTAH STATE PRISON, DRAPER, UT

Fourteen more years passed. Then Utah shot Ronnie Lee Gardner, and his is the case that reaches Idaho most directly, for reasons that have nothing to do with the shooting itself.

Gardner was forty-nine and had spent nearly his entire adult life in custody. His childhood is not in dispute. The Tenth Circuit, denying him relief, wrote that it was undisputed that his childhood had been troubled in many respects.[33] His lawyers documented poverty, neglect, early drug addiction, physical and sexual abuse, and a series of serious head injuries.[34] He had committed two murders by the age of twenty-four.

In October 1984, he shot and killed Melvyn John Otterstrom, a bartender, during a robbery. In April 1985, while being moved through a Salt Lake City courthouse for a hearing in that case, someone passed him

a gun. He shot Michael Burdell, an attorney who had taken cover behind a door. Burdell died in surgery forty-five minutes later. Gardner forced a prison officer to lead him out of the basement. Crossing the lobby, he shot and seriously wounded Nicholas Kirk, a fifty-eight-year-old uniformed bailiff who was unarmed and had just stepped off an elevator. He took a vending machine serviceman hostage on the next floor. The man broke free. Gardner walked out of the building into a half-dozen drawn weapons.[35] Kirk's family said he died eleven years later as a result of the wound.

He was convicted and sentenced to death in October 1985. In 1991, a state court judge found that he had been denied adequate representation at the sentencing phase of that trial, including through his lawyer's failure to investigate.[36] Three of the jurors who sentenced him later provided statements indicating that the evidence they had not heard might have produced a different verdict.[37] None of that saved him. The Tenth Circuit noted that reasonable minds could differ on how a jury would have weighed fuller mental health testimony, then applied the deference federal courts owe state court judgments and concluded that the Utah Supreme Court's ruling had not been unreasonable.[38]

That is the sentence to sit with. Not that the sentencing was right. That the state court's conclusion was not unreasonable enough to disturb.

Michael Burdell's family asked Utah not to do it. Burdell was a pacifist. He had opposed capital punishment in life. His girlfriend at the time of the murder, Donna Nu, told a reporter that Michael did not believe in capital punishment, that he did not believe in a life for a life, and that he would not have wanted to be the reason Ronnie Lee Gardner was killed.[39] Burdell's eighty-six-year-old father submitted a statement saying the same thing. A close friend of Burdell's said it too. They asked to testify at the commutation hearing on Gardner's behalf.[40]

The family of the murdered man did not want the state to shoot anybody on their behalf. Utah shot him anyway.

The other family took the other view, and it belongs here with equal weight. VelDean Kirk, the widow of the bailiff Gardner shot, witnessed the execution. She said afterward that she did not think the method was barbaric, and when Utah moved in 2015 to restore the firing squad, she supported it.[41]

I raise this not because a victim's family's wishes should be dispositive — Part Three takes some care to say that they should not be, in either direction, and that Meredith Barnett's view of what Mikal Mahdi deserved is as legitimate as Donna Nu's view of what Ronnie Lee Gardner deserved. I raise it because the certainty and closure this method is sold with are almost always sold in the name of victims' families, and because in the modern record's third case, the victim's family stood up in a hearing room and said the state was not acting for them.

The choice. Gardner could select the firing squad only because he had been sentenced before Utah's 2004 change. Asked in open court by Judge Robin Reese to elect a method, he answered that he would like the firing squad, please. He said publicly that he preferred it because of his Mormon heritage, invoking the regional memory that had written beheading into Utah's first territorial code a century and a half earlier. He also voiced a political grievance. He believed Utah lawmakers were trying to phase the method out against the actual preference of much of the Utah public, out of embarrassment over the state's image heading into the 2002 Winter Olympics.[42]

His is the only case in the modern record in which a man chose the rifle for theological and cultural reasons of his own rather than to escape something worse. One case in six.

The last month. His lawyers filed a clemency petition in early May 2010, asking the Utah Board of Pardons and Parole to commute his sentence to life without parole. The board agreed to hold a hearing, which it was not obliged to do, and convened for two days on June 10 and 11 at the prison.[43] It heard nearly eight hours of testimony. The petition rested on his childhood, his conduct over twenty-five years in

custody, and his stated remorse. His attorney Andrew Parnes argued that the mitigating evidence had never been properly heard in state court and put three statements from Gardner's own sentencing jurors before the board, indicating that the evidence they had not heard might have produced a different verdict.[44]

Gardner testified for about two hours. He told the board he wanted to live in order to help children in trouble, that he and his brother were trying to develop a hundred and sixty acres in northern Utah into an organic farm and a residential program, and that he intended to donate the thirteen hundred dollars he had earned selling artwork from prison. He said he thought he was the perfect example of what a person should not do.[45]

The families spoke on both sides. Jason Otterstrom described what his father's murder had done to them. Tami Stewart, Nick Kirk's daughter, made a statement. Donna Nu and Burdell's friends asked the board to spare him.[46]

The five-member board denied commutation unanimously. Its chairman, Curt Garner, announced that the board had determined the jury's verdict imposing a death sentence was not inappropriate and that no sufficient reason existed to grant clemency.[47] Utah had not commuted a condemned man's sentence since 1962.[48] The Utah Supreme Court exhausted his state appeals on June 14. A federal stay was denied on June 17.[49]

One further thing happened in those days. Parnes filed suit in federal court arguing that the commutation process was structurally conflicted, because the lawyers advising the Board of Pardons worked for the same attorney general's office that had sought Gardner's death warrant and would argue against commuting him. Chief Judge Tena Campbell denied relief, finding the office's internal firewall sufficient and finding that Gardner had not shown he could not receive a fair and impartial hearing.[50] I note it without claiming the ruling was wrong. The state asked for the warrant, argued against mercy, and advised the body

deciding whether to grant it. A system can be lawful and still be built so that no one inside it ever has to feel the weight of the decision alone.

He spent his final hours with a bishop.[51]

The room. Nine journalists were admitted. The state of Utah classifies what they came to watch as a homicide.[52] The media witnesses were allowed to bring nothing in with them. They were issued a press badge, a notepad, a pen, and earplugs.[53]

The earplugs deserve a second look. Every other method this country has used is quiet enough that witnesses need no protection from it. The firing squad is the only American execution method that requires the state to hand its witnesses hearing protection at the door. That is the candor the method is praised for, arriving as a piece of safety equipment.

When the curtain drew back at 12:15 a.m., Gardner was already strapped into a black straight-backed metal chair set on a low platform, like a stage. He wore a dark blue prison jumpsuit and no shoes. A prison official asked whether he wanted to say anything.

"I do not, no," Gardner said.[54]

A black hood went over his bald head. A small target was fixed over his heart. Five anonymous marksmen with a matched set of .30-caliber rifles waited behind a curtain and a ported brick wall. One rifle held a blank. A countdown began that the witnesses could barely hear, then two loud reports in quick succession.[55]

The killing. Four rounds entered his chest.

Doug Fabrizio, one of the witnesses, watched him clench a fist and then release it.[56] Jennifer Dobner, the Associated Press reporter in the room, had braced herself to flinch and did not. It was over so fast that for a moment she wondered whether it had happened at all. She heard nothing from the condemned man. She never saw the guns. She did not hear the countdown. Blood seemed to pool at his waist inside the dark jumpsuit. "The silence was deafening," she wrote.[57]

A medical examiner checked his pulse at both sides of the neck, then lifted the hood and checked his pupils with a flashlight, briefly showing the witnesses an ashen face. He was pronounced dead at 12:17 a.m. Two

minutes had passed since the curtain opened. Some wire copy filed that night gave 12:20.[58]

An hour later, the prison let the reporters into the chamber. There was a strong smell of bleach and no sign of blood. The only physical evidence that a man had been shot to death was four holes in the black wood panels behind the chair.[59] Utah's shooters fired from a shorter distance than Idaho's protocol prescribes, and four rounds ended up in the wall behind the man.

Afterward. Utah's attorney general told reporters that Gardner would never kill again and would never assault anyone again.[60] Fabrizio, years later, was still working out what he had participated in by watching. He described feeling conflicted throughout: he believed journalists should be present at these events, and he kept asking himself whether he was doing anything more than looking.[61]

Chapter 12 is about witnesses. Doug Fabrizio's fifteen-year discomfort is the most searching account of that role in the modern firing squad record, and it comes from a man who was there in a professional capacity and has never been able to file it away.

What this case adds. Three things. The victim's family asking the state to stop. The two reports rather than one volley, which is the only direct evidence in the entire modern record bearing on whether these rifles fire simultaneously. And the four holes in the panel, which is the only direct evidence bearing on what these rounds do after they reach the man.

What we do not know. Two reports in quick succession is not one volley. Whether that means the rifles did not fire simultaneously, and whether simultaneity affects the outcome the way Idaho's protocol assumes, the record does not say, and no state has been asked. No published pathology report established where the four rounds struck relative to the heart. Whether the holes in the wood panels represent rounds that passed through his body or rounds that missed it is not documented anywhere I have been able to find. Whether the clenched fist was reflex or a man still conscious inside his body, nobody knows.

And Dobner's account and Fabrizio's do not entirely agree: one records a stillness and a silence, the other a hand closing. Two trained observers, sitting feet apart, watching the same one hundred and twenty seconds.

Brad Sigmon

March 7, 2025 — Broad River Correctional Institution, Columbia, SC

Fifteen years passed. Then South Carolina, for reasons that had nothing to do with Utah's theology and everything to do with the collapse of the lethal injection supply chain, took up the method.

Brad Sigmon was sixty-seven, the oldest person South Carolina had ever executed.[62]

In April 2001, he beat David and Gladys Larke to death with a baseball bat in their Greenville home. He then kidnapped their daughter, his ex-girlfriend, at gunpoint. She escaped as he fired at her. He was convicted in 2002 and sentenced to death twice over, with thirty years for the burglary.[63]

He admitted his guilt at trial. His appellate attorney, Gerald "Bo" King of the federal public defender's office, argued in mitigation that Sigmon had an undiagnosed mental illness producing irrational and impulsive episodes, that he had organic brain damage and a violent childhood, and that he had suffered a psychotic break. King said Sigmon had expressed his grief for what he did to his jury and afterward to everyone who knew him.[64]

Around the time of the execution, the Larkes' daughter gave her first interview in the twenty-four years since her parents' murders. She said what Sigmon did had torn her family apart. She also said she did not agree with executing him and that death belonged in God's hands.[65] That is the second time in six cases that someone the condemned man had grievously harmed asked the state not to kill him.

The choice. South Carolina law required Sigmon to select a method or accept electrocution by default. He chose the bullet.

His lawyers said he feared a repeat of the documented lethal injection complications other South Carolina prisoners had suffered, and that the state's century-old electric chair carried its own history of malfunction. King said in advance of the execution that the choice itself was cruel, that everything about it was cruel, and that the public should be furious rather than merely horrified.[66]

The day before he died, Sigmon asked the South Carolina Supreme Court to pause his execution on the ground that the state's shield law kept the details of its lethal injection protocol secret, which meant he was being made to choose among methods without being told what one of them would do to him. The court declined.[67]

The sequence runs like this. The state withholds the information. The prisoner asks a court to make the state disclose it. The court refuses. The prisoner then selects a method under the conditions the state created, and the state's supporters describe the selection as his free choice. Chapter 9 takes that apart at length. Brad Sigmon is the clearest example of it in the record.

Governor Henry McMaster denied clemency. No South Carolina governor has commuted a death sentence in at least half a century.[68]

His last morning. He spent two hours with a spiritual advisor. The Reverend Hilary Taylor, executive director of South Carolinians for Alternatives to the Death Penalty, was with him. She was among the witnesses to his death.[69]

I mark that because I have written from inside that role and because Chapter 12 turns on it. A minister sat with Brad Sigmon for two hours and then watched three men shoot him from fifteen feet. Exactly one person in the United States has done what Idaho's chamber will ask a spiritual advisor to do, and she did it in South Carolina in March of 2025.

King's statement after the execution said the state had ended the life of a man who had devoted himself to his faith and to the service of

everyone around him.[70] About two dozen protesters stood at the gates on Broad River Road with signs saying that all life is precious.[71]

The room. He was strapped into a metal chair set in the corner of the room that also holds the state's electric chair. He wore a black prison jumpsuit. His ankles were held by leather restraints. A hood went over his head. A white target with a red bullseye was fixed over his heart. Three corrections employees who had volunteered stood fifteen feet away behind a wall, firing through an opening. All three had live ammunition. South Carolina uses no blank.[72]

Neither does Idaho, whose protocol has the team leader load a single live round into a magazine for each of the three weapons. The oldest mercy in the method — a mercy extended not to the condemned but to the men who shoot him — was the first thing the modern states cut, and, if Gilmore's shirt is any guide, the first thing Utah quietly cut before them.[73]

The killing. The curtain opened. Sigmon looked toward his attorney in the front row and the two of them exchanged something.[74]

His final statement was read aloud to the witnesses by King. He said he wanted his closing words to be a call of love to his fellow Christians, asking them to help end the death penalty. He said an eye for an eye had been used to persuade his jury to kill him and that he had been at the time too ignorant to know how wrong that was, because we no longer live under the old law but under the new. He quoted the Sermon on the Mount, at Matthew 5:38–39, where the instruction not to resist an evil person replaces the instruction to take an eye for an eye.[75] He ended: "We are now under God's grace and mercy."[76]

I cannot be neutral about this, and I do not think the reader is served by my pretending. Of the six men American states have shot in the modern era, one used his last breath to ask the church to abolish the thing that was killing him. He did it by quoting Jesus back to a Christian state, in a room built by that state, in front of witnesses that state selected, seconds before three of its employees put rifle rounds through his chest. Idaho's legislature debated this method across two sessions. It

heard testimony about certainty, about cost, and about what the families of victims deserve. Nothing in the record suggests that anyone read Brad Sigmon's last words aloud on either floor of that building. They were available. They had been in the wire copy for fifteen months.

The shots came at 6:05 p.m. Witnesses described a jagged red mark, roughly the size of a small fist, appearing where the target had been, and Sigmon's body flinching and moving several times before going still.[77] A physician pronounced him dead at 6:08.[78]

Afterward. The state commissioned an autopsy. When it was later reviewed by NPR reporters and by attorneys for a subsequent prisoner, it documented three distinct bullet wounds, all near the heart, together with x-rays, internal organ photographs, and clothing analysis: a relatively thorough documentation package by the standards South Carolina would apply five weeks later.[79]

What this case adds. On the available record, Sigmon's execution is the closest thing this group produced to the outcome the certainty promise describes. Three shooters, three wounds, all in the intended vicinity, death declared within roughly three minutes. Of the six modern accounts of the firing squad, this is one of only two in which the method appears to have worked the way officials wanted it to.

He also supplies the two things the method's defenders cannot absorb. The choice he made was made in the dark, by design, after a court declined to turn the lights on. And the man who made it spent his last sentence asking Christians to stop.

What we do not know. How long he was conscious. Three wounds near the heart is not the same finding as three wounds through the heart, and the difference is measured in seconds of consciousness that no document in the public record fixes. The witnesses saw a body move several times before going still. Whether Brad Sigmon was conscious during those movements has never been established. The most successful firing squad execution in the modern American record cannot tell us how long the man remained alive.

Mikal Mahdi

April 11, 2025 — Broad River Correctional Institution, Columbia, SC

Thirty-five days later, in the same chair, under the same protocol, at the same fifteen feet.

Mikal Deen Mahdi was forty-two. He was born in Virginia in 1983, the second son of a woman married at sixteen in an arranged marriage.[80]

His lawyers never disputed what he did. They disputed whether any court had ever been shown the rest of him. As a toddler, he watched his father beat his mother. She fled when he was four and left the boys with the man who had been beating her. His father told them she did not love them and later told them she was dead. By eight, he was suicidal. By nine, he had been briefly committed to a psychiatric facility and released without follow-up treatment. His father pulled him out of school in the fifth grade after a school psychologist recommended help, homeschooled him, and put him through paramilitary training. At fourteen, he went into juvenile detention for property crimes. He came out and went back in.[81]

Between fourteen and twenty-one, he spent roughly six thousand hours, about eight months of his life, in solitary confinement, often for minor infractions. Virginia did not stop using the form of juvenile solitary it used on him until 2021.[82] One psychologist who examined him described trauma, depression, and anger as severe as any he had seen.[83] His maternal aunt told a reporter that if he had been born to any other couple, he could have flourished.[84]

Two months after his release from that system, at twenty-one, he committed the crimes he died for. Over three days in July 2004, he shot and killed Christopher Boggs, a convenience store clerk in North Carolina, and then James Myers, a captain with the Orangeburg Department of Public Safety, whom he shot with Myers's own rifle on Myers's property and whose body he burned in a shed.[85] He pleaded guilty.

The sentencing. At the sentencing hearing, the state called twenty-eight witnesses to establish the crimes, the aggravating circumstances, his record, and the impact on the victims' families. The defense called two. Rather than putting on a single mitigation witness from the community who knew him, trial counsel relied on one expert, a clinical social worker, whose account of Mikal Mahdi's entire life, excluding her credentials and methodology, occupied about fifteen pages of transcript. The only other defense witness was a prison adaptability expert.[86]

The judge sentenced him to death and said he lacked humanity.

Nineteen years of appellate litigation followed, and no court ever heard the full record of his childhood. That is not a claim about his innocence. He was not innocent. It is a claim about whether the machine that decided he should be shot was given the facts the law says it must be given.

His prison record contains what one would expect. During his trial, he smuggled a handmade handcuff key into the courthouse in his mouth in an attempt to escape. In 2009, he and another inmate assaulted a detention officer, who survived.[87] The state cited these things. They are true. They are also what can happen to a person who entered the system at fourteen and never got out.

The choice. He rejected the electric chair because he feared dying burned and mutilated. He rejected lethal injection because he feared a prolonged death strapped to a gurney. His attorney, David Weiss, said that faced with barbaric and inhumane options, Mahdi had chosen "the lesser of three evils."[88]

Hold that against what happened to him. Mahdi rejected lethal injection to avoid a slow death, and the firing squad gave him one. The choice South Carolina offered him was not a mechanism for securing a better outcome. It could not have been, because the information he needed in order to choose well did not exist yet and would be produced by his own body.

The Supreme Court declined his final appeal on the morning of the eleventh. McMaster declined clemency hours later.[89]

His last days. He asked to donate his organs and tissue. Weiss said that facing death, Mikal had advocated for life, and that in his final days he sought a measure of peace and purpose in the hope of saving others.[90]

Two of the six men in these pages tried to give their bodies away while the state was preparing to destroy them. Gary Gilmore in 1977 and Mikal Mahdi in 2025. In Gilmore's case, some tissue was recovered. In Mahdi's, the method made it impossible, which is a fact about the firing squad that no legislature has discussed.

His last meal was ribeye cooked medium, mushroom risotto, broccoli, collard greens, cheesecake, and sweet tea.[91] About twenty-five people stood outside the gates, among them a Catholic sister from the Diocese of Charleston and a first-year law student from Cornell.[92]

The room. Three media witnesses had volunteered for the assignment: Martha Rose Brown of the Orangeburg *Times and Democrat*, Jeffrey Collins of the Associated Press, and Brian McConchie of WACH. Nine witnesses in total sat behind bulletproof glass and bars.[93]

The curtain opened seconds before six o'clock. Mahdi gave no final statement. He did not turn his head toward the witnesses. The hood went over his head at 6:01. In the forty-five seconds between the hood and the shots, he took several deep breaths.[94]

The killing. Three rounds were fired. Everyone in the room flinched, because there is no audible warning.[95]

Mahdi cried out. Brown, who had never witnessed an execution before, described it as a yell, like a holler.[96] His arms flexed. The white target was driven into the wound in his chest. Collins recorded two groans about forty-five seconds after the shots, then roughly eighty more seconds of breathing. McConchie described the last of it as a deep heave, the chest expanding outward and then collapsing.[97] A doctor entered and pronounced him dead at 6:05 p.m. All three media witnesses said afterward that he had shown signs of pain.[98]

Afterward. The documentation South Carolina provided was thinner than what it had produced five weeks earlier for Sigmon: a single

photograph of the torso rather than the full set of x-rays, internal imagery, and clothing analysis.[99]

What it showed was enough. The state's own commissioned autopsy, performed by Dr. Marcus Bradley, recorded two entrance wounds on a chest at which three shooters had fired. Both sat at the lowest part of the chest, just above the abdomen, in an area that does not largely overlie the heart. The wound tracks ran downward and to the right through the left lobe of the liver, the pancreas, and the lower left lung. Fragments perforated the right ventricle, but no round struck the heart the way the protocol requires, and his heart went on beating.[100] Dr. Jonathan Arden, the forensic pathologist Mahdi's lawyers retained, concluded that only two bullets had struck him and estimated thirty to sixty seconds of conscious pain and suffering.[101] The period of consciousness the method is designed to produce is on the order of ten to fifteen seconds.

His lawyers filed a formal complaint with the South Carolina Supreme Court. The Department of Corrections disputes the account, maintaining that all three rounds were fired, that two entered through a single wound along the same path, and that the protocol was followed. Arden called the single-hole explanation extraordinarily uncommon and noted that two bullets through one entrance would leave a larger and more irregular wound than the photographs show.[102] Weiss called the execution barbaric and said it belonged in the darkest chapters of history rather than in a civilized society.[103]

What this case adds. Mahdi is the one execution in the modern record where failure is documented rather than suspected. Everything argued here about certainty rests on him. And it rests on him only because his lawyers went and got the paper, from a state that did not volunteer it, in a jurisdiction where the shield law is currently before the state's highest court.

He also demonstrates the failure mode Idaho's protocol does not address. Three trained shooters at fifteen feet with a target over the heart

produced two entrance wounds and a beating heart. Idaho will fire from ten yards.

What we do not know. Weiss put the question in its simplest form and no one has answered it: whether a gun jammed, whether a man did not fire, whether a man missed. How long Mahdi was conscious is a retained expert's estimate, contested by the state, and the state's own account cannot be checked against documentation the state chose not to produce. Why the documentation package shrank between March 7 and April 11, or who decided that it should, has never been explained.

Stephen Corey Bryant

NOVEMBER 14, 2025 — BROAD RIVER CORRECTIONAL INSTITUTION, COLUMBIA, SC

Seven months later, the sixth and last.

Stephen Corey Bryant was forty-four and had been on death row for seventeen years.

In October 2004, he committed a string of burglaries along the dirt roads of rural Sumter County, took a semiautomatic rifle and ammunition from one of the houses, and used them over the following days to shoot four people, killing three. He stopped at Willard Tietjen's secluded home claiming car trouble. Tietjen invited him in and the two of them began talking about religion. Bryant shot him nine times. He burned the man's eyes with a lit cigarette, set his goatee on fire, lit candles around the body, and used a potholder Tietjen's daughter had made as a child, dipped in her father's blood, to write taunting messages to the police on the wall. One of them dared them to catch him. Tietjen's daughter called her father six times. On the last call, a stranger answered and told her he had killed him.[104]

Bryant pleaded guilty in 2008 and was sentenced to death.[105]

In seventeen years on the row, he received only two disciplinary sanctions: fighting without a weapon in 2009 and possessing a weapon in 2023.[106]

The last appeal. His lawyers argued that the judge who sentenced him had never been told how badly his brain was damaged before he was born. They said his mother drank heavily and used drugs while pregnant with him, that he had never received a full brain scan before his 2008 trial, and that Fetal Alcohol Spectrum Disorder had impaired his capacity to conform his conduct to the law. They submitted a 2024 interview with a clinical psychologist in which Bryant described being sexually abused as a child by male relatives. His original defense team had told the court he was unnerved in the months before the killings because he could not stop thinking about that abuse. What they had not done was connect it to the damage.[107]

The state answered that the burglaries and the shootings were methodical rather than impulsive.

The South Carolina Supreme Court rejected the appeal unanimously on November 10. It reasoned that further investigation into Fetal Alcohol Spectrum Disorder would only have supplied a different explanation for his problems without changing the outcome, and wrote that by any stretch, Bryant had demonstrated a high level of planning, decision making, and calculation.[108] The United States Supreme Court had already declined to review his sentence in October.[109]

His attorneys did not appeal the state ruling to Washington. They did not file for clemency either. Governor McMaster issued a denial anyway.[110] In the last case in the modern record, the machinery ran to completion against a man whose lawyers had stopped asking it to stop, and the governor of South Carolina published a refusal of a request that nobody had made.

The choice. Under South Carolina law, a condemned person has until two weeks before the date to select a method. Bryant chose the firing squad on October 31.[111] Four of the seven men South Carolina had executed since resuming in September 2024 chose lethal injection.

Three chose the rifle.[112] With his death, the state drew even with Utah for the most firing squad executions in the country.

The room. About twenty people gathered at the gates.[113] Ten witnesses sat behind the glass, among them three members of Willard Tietjen's family, representatives of the Third Circuit Solicitor's Office and the Sumter County Sheriff's Office, and Bryant's attorney.[114]

His feet were shackled to the chair. His arms were strapped behind him and to the chair. His head was strapped down. Asked whether he wished to make a final statement, he declined. He glanced briefly at the witnesses. Then the hood went on, and about fifty-five seconds later three volunteers fired.[115]

The killing. He made no sound.

The bullseye, a target roughly the size of a sticky note, flew forward off his chest and across the room. Blood pooled across the front of him. Collins, in the witness room for the third time that year, watched a few shallow breaths and then a final spasm a little over a minute later; he said afterward that Bryant's breathing had stayed consistently shallow throughout, unlike the two firing squad executions he had already witnessed. Tietjen's three family members watched holding hands. Their only visible reaction was a flinch when the shots came. A doctor checked him with a stethoscope for about a minute. He was pronounced dead at 6:05 p.m., three minutes after the volley.[116]

King, who by then had watched the state kill two of his clients this way, said afterward that Bryant was the seventh man South Carolina had executed in fourteen months, that each had been forced into a choice among bloody, burning, or protracted deaths, that each execution had been brutal and shameful, and that none had made the state safer or more just.[117]

What this case adds. On the face of the witness record, Bryant's execution did what Idaho's legislators said the method would do. It is the second of two such cases out of six. An argument that this method is unreliable is worth nothing if it counts only the failures.

This case adds one more thing, which is the clemency that was denied without being sought. Chapter 14 takes up the federal question and the machinery of last resort. Stephen Bryant is what that machinery looks like when everyone involved has stopped pretending.

What we do not know. Nearly all of it. No autopsy in his case had been released publicly as of this writing. What exists is an eyewitness account rather than a pathology report, and that distinction is the lesson of Mikal Mahdi. The discrepancy in Mahdi's case was invisible from the witness room. Witnesses saw a man who had been shot and who then died. It took a pathologist looking at the body to establish that two wounds existed where three shooters had fired, and that no round had struck the heart as intended. Whatever the witness record shows about Stephen Bryant, it belongs to the category of evidence that has already failed once, in the same chamber, seven months earlier, to detect a failure.

What the Six Add up to

Two of the six men had families of their victims ask the state, on the record, not to do this. At least four had documented histories of childhood abuse, brain injury, prenatal damage, or untreated mental illness that no sentencing body ever heard in full. One was baptized eight days before he was shot. One spent his final sentence asking the church to abolish the death penalty. Three declined to say anything at the end or were not recorded as having said it. Two asked to donate their organs, and only one of those requests could be honored.

On the matter of choosing a method, Gilmore chose the rifle over a rope he thought might fail. Taylor chose it over a needle he thought would make him thrash. Sigmon chose it over drugs the state refused to describe to him and a chair he thought would burn him. Mahdi chose it over the same two things and got the death he was trying to avoid. Bryant chose it and left no account of why. That is five men out of six

selecting the firing squad as an escape from something else, and exactly one, Ronnie Lee Gardner, choosing it for a reason of his own.

In the modern era, the firing squad has never once been chosen because someone wanted it. It has been chosen because the alternatives were worse or were hidden. Idaho has now made it the default, which removes even that. Beginning July 1, 2026, no one in Idaho has to choose the bullet. The bullet is what happens unless the director of the Department of Correction files an affidavit saying otherwise.

Of the six, two published autopsies exist: both from the last eighteen months, both from the same state, and one of the two thinner than the other by that state's own choosing. Four of the six executions produced no released pathology at all. One of the two autopsies documented failure. That is a documented failure rate of one in two among the executions this country has bothered to examine, and a documentation rate of one in three overall. No state would accept those numbers from a hospital, a laboratory, an airline, or a firearms manufacturer. Idaho accepted them for carrying out executions.

That is the file Idaho voted on. Not because the file was hidden — most of it was a search away, in wire copy, court records, and two autopsies — but because a legislature that wanted a method badly enough did not have to read what it was buying.

Six men in two states across forty-nine years have been executed by firing squad. The method had been used for four centuries but had never before been required to prove itself. Legally, it still has not.

NOTES

1. On Gilmore's family and early life, see Norman Mailer, *The Executioner's Song* (Little, Brown, 1979); Mikal Gilmore, *Shot in the Heart* (Doubleday, 1994); and contemporaneous Associated Press and *Deseret News* coverage, January 1977.

2. On the July 1976 murders of Max Jensen and Ben Bushnell, see Mailer, *The Executioner's Song*; and *State v. Gilmore*, 561 P.2d 1063 (Utah 1977).

3. Gilmore, testimony before the Utah Board of Pardons, November 1976, quoted in "The Justice Files: The execution of Gary Gilmore," ABC4 Utah, https://www.abc4.com/news/justice-files/the-justice-files-the-execution-of-

gary-gilmore-2/.

4. Gilmore, Board of Pardons hearing, November 1976, as reported in contemporaneous coverage.

5. On Gilmore's selection of shooting over hanging, see contemporaneous Utah press coverage, November 1976.

6. ABC4 Utah, "The Justice Files"; on the ACLU's position, statements of Shirley Pedler, ACLU of Utah, November 1976 -- January 1977.

7. *Gilmore v. Utah*, 429 U.S. 1012 (1976) (per curiam), https://supreme.justia.com/cases/federal/us/429/1012/.

8. Ibid.; Capital Punishment U.K.; and *Gilmore v. Utah*, 429 U.S. 1012.

9. On Gilmore's last night and last meal, contemporaneous Associated Press coverage, January 17, 1977.

10. Contemporaneous accounts of the execution, Associated Press and *Deseret News*, January 17, 1977.

11. Mikal Gilmore, Shot in the Heart (Doubleday, 1994), 390. Mikal Gilmore records Utah's tradition of five shooters, four with live rounds and one with a blank, and his own count of five holes in the shirt his brother wore.

12. On the absence of a blank round in South Carolina, see the media witness accounts of the March 7, 2025 execution, which describe three volunteers all firing live ammunition. On Idaho, see the Idaho Department of Correction standard operating procedure as reported in "Idaho to rely on law enforcement volunteers for firing squad executions," Idaho Statesman, June 11, 2026, and "IDOC outlines firing squad procedures as new policy nears implementation," Rexburg Standard Journal, June 2026.

13. Ibid.; ABC4 Utah, "The Justice Files."

14. ABC4 Utah, "The Justice Files"; "Gilmore, Gary (1940-1977)," in *Encyclopedia of Prisons and Correctional Facilities* (SAGE, 2005), https://sk.sagepub.com/ency/edvol/prisons/chpt/gilmore-gary-1940-1977.

15. *Encyclopedia of Prisons and Correctional Facilities*, "Gilmore, Gary."

16. Vern Damico, quoted in Capital Punishment U.K.

17. Statements of Utah Attorney General Robert B. Hansen and of Henry Schwarzschild of the ACLU Capital Punishment Project, January 17, 1977.

18. Mailer, *The Executioner's Song.*

19. On Taylor's early life, see contemporaneous *Deseret News* coverage, 1992-1996.

20. "Child killer executed by Utah firing squad," *Deseret News*, January 26, 1996, https://www.deseret.com/1996/1/26/19221528/online-document-child-killer-executed-by-utah-firing-squad/.

21. "Utah killer executed by firing squad," United Press International, January 26, 1996, https://www.upi.com/Archives/1996/01/26/Utah-killer-executed-by-firing-squad/8649822632400/.

22. "Utah firing squad executes child killer," Associated Press, published in *The Spokesman-Review*, January 26, 1996,

https://www.spokesman.com/stories/1996/jan/26/utah-firing-squad-executes-child-killer/.

23. "Child killer executed by Utah firing squad," *Deseret News*, January 26, 1996.

24. Ibid. (statement of Beverly DeVoy).

25. United Press International, January 26, 1996; on the number of media witnesses, contemporaneous Salt Lake City broadcast accounts.

26. *Deseret News*, January 26, 1996; Associated Press, January 26, 1996; on the twenty-three-foot distance, United Press International, January 26, 1996.

27. "Firing squad carries out execution," *Deseret News*, January 26, 1996, https://www.deseret.com/1996/1/26/19221501/firing-squad-carries-out-execution/.

28. "Child killer executed by Utah firing squad," *Deseret News*, January 26, 1996.

29. United Press International, January 26, 1996 (quoting KTVX reporter Paul Murphy).

30. Ibid.

31. "Child killer executed by Utah firing squad," *Deseret News*, January 26, 1996 (quoting Utah Attorney General Jan Graham).

32. *Deseret News*, January 26, 1996.

33. *Gardner v. Galetka*, 568 F.3d 862 (10th Cir. 2009), quoted in Amnesty International, "USA: Death penalty / Legal concern: Ronnie Lee Gardner," AMR 51/039/2010, May 12, 2010, https://www.amnesty.org/es/wp-content/uploads/2021/06/amr510392010en.pdf.

34. Ibid.; and "Inmate facing firing squad seeks clemency," Associated Press, June 10, 2010, https://www.nbcnews.com/id/wbna37625594.

35. On the April 2, 1985 courthouse shooting, see *State v. Gardner*, 789 P.2d 273 (Utah 1989); and contemporaneous *Deseret News* and *Salt Lake Tribune* coverage.

36. Amnesty International, AMR 51/039/2010.

37. Associated Press, June 10, 2010.

38. *Gardner v. Galetka*, 568 F.3d 862 (10th Cir. 2009), as summarized in Amnesty International, AMR 51/039/2010.

39. Donna Nu, quoted in "Victim's family asks to block execution of condemned killer Ronnie Gardner," ABC News, May 5, 2010, https://abcnews.com/TheLaw/murder-victims-family-seeks-block-killers-execution/story?id=10563476.

40. Ibid.; Amnesty International, AMR 51/046/2010, https://www.amnesty.org/es/wp-content/uploads/2021/06/amr510462010en.pdf.

41. VelDean Kirk, widow of bailiff Nicholas Kirk, quoted in "Utah to use firing squads if lethal drugs are unavailable," Associated Press, March 2015. Mrs. Kirk witnessed Gardner's execution and supported the 2015 restoration of the method.

42. On Gardner's stated reasons, contemporaneous Associated Press and *Salt Lake Tribune* coverage, June 2010.

43. Amnesty International, AMR 51/046/2010.

44. Associated Press, June 10, 2010 (statements of Andrew Parnes).

45. "Ronnie Lee Gardner, convicted Utah killer, pleads for life," Associated Press, June 10, 2010. Gardner testified for approximately two hours before the Utah Board of Pardons and Parole.

46. Ibid.

47. "Clemency denied for Utah killer scheduled for firing squad execution," Associated Press, June 14, 2010, quoting board chairman Curt Garner.

48. "Clemency denied for Utah killer scheduled for firing squad execution," Associated Press, June 14, 2010. Utah last granted clemency to a condemned prisoner in 1962.

49. "Ronnie Lee Gardner hopes for reprieve from Utah firing squad tonight," Associated Press, June 17, 2010, https://www.csmonitor.com/From-the-news-wires/2010/0617/Ronnie-Lee-Gardner-hopes-for-reprieve-from-Utah-firing-squad-tonight.

50. "Hearing on firing squad sentence will go on," Associated Press, June 2010, reporting Chief Judge Tena Campbell's denial of Gardner's request for a temporary restraining order against the commutation hearing.

51. Doug Fabrizio, interviewed in "What a witness remembers about Utah's 2010 execution of Ronnie Lee Gardner," KUER, August 6, 2024, https://www.kuer.org/politics-government/2024-08-06/what-a-witness-remembers-about-utahs-2010-execution-of-ronnie-lee-gardner.

52. Jennifer Dobner, "AP reporter gives eyewitness account of state 'homicide,'" Associated Press, June 18, 2010, https://www.cbsnews.com/news/ronnie-lee-gardner-execution-ap-reporter-gives-eyewitness-account-of-state-homicide/.

53. Fabrizio, KUER, August 6, 2024.

54. "Convicted killer Ronnie Lee Gardner executed in Utah," ABC News, June 18, 2010, https://www.goodmorningamerica.com/news/story/convicted-killer-ronnie-lee-gardner-executed-utah-10949786.

55. Ibid.; on the five marksmen, the matched .30-caliber rifles, the blank round and the ported brick wall, see "Ronnie Lee Gardner's life ends with hardly a word," *Deseret News*, June 18, 2010, https://www.deseret.com/2010/6/18/20122221/ronnie-lee-gardner-s-life-ends-with-hardly-a-word/.

56. Fabrizio, KUER, August 6, 2024; ABC News, June 18, 2010.

57. Dobner, Associated Press, June 18, 2010.

58. Ibid.

59. Ibid.

60. Statement of Utah Attorney General Mark Shurtleff, June 18, 2010, reported in ABC News, June 18, 2010.

61. Fabrizio, KUER, August 6, 2024.

62. "South Carolina inmate executed by firing squad for first time in US since 2010," CNN, March 7, 2025, https://www.cnn.com/2025/03/07/us/brad-sigmon-south-carolina-firing-squad-execution.

63. Ibid.; "SC inmate executed by firing squad, a first nationwide since 2010," SC Daily Gazette, March 7, 2025.

64. "Firing squad executes Brad Keith Sigmon in South Carolina," USA TODAY, March 8, 2025 (statements of Gerald "Bo" King).

65. Ibid. (interview with the Larkes' daughter).

66. Associated Press (Jeffrey Collins), March 7, 2025; *Post and Courier*, March 7, 2025; USA TODAY, March 8, 2025. See also Chapter 9.

67. "Sigmon's final words urge Christians and lawmakers to reconsider 'eye for an eye' justice," WCIV, March 7, 2025, https://abcnews4.com/news/local/sigmons-final-words-urge-christians-and-lawmakers-to-reconsider-eye-for-an-eye-justice-death-penalty-wciv-abc-news-4-03-07-2025.

68. CNN, March 7, 2025; on the absence of South Carolina commutations, SC Daily Gazette, November 14, 2025.

69. "Brad Sigmon's final conversation with his spiritual adviser," NewsNation, March 8, 2025, https://www.newsnationnow.com/crime/brad-sigmon-final-conversation-spiritual-adviser/.

70. SC Daily Gazette, March 7, 2025 (statement of Gerald "Bo" King, Federal Public Defender's Office).

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PART II

THE FOUR BROKEN PROMISES

That is the entire modern evidentiary basis for the promise of certainty, and it is the basis on which Idaho built a room.

CHAPTER 6

The First Promise — Certainty

* * *

Every argument for the firing squad, from Representative Skaug's floor speech to the op-eds that ran in Idaho papers in the weeks before July 1, 2026, begins in the same place: a bullet cannot fail to be found the way a vein can. You do not need a trained phlebotomist to locate a man's chest. You do not need a compounding pharmacy to manufacture a bullet. The rifle either fires or it does not, and if it fires, the argument goes, the outcome is not in question.

That argument is false, and it is false in a way that is now documented, autopsied, and a matter of public record. Idaho did not choose the firing squad in ignorance of that record. It chose the firing squad with the record already in front of it.

WHAT "CERTAIN" WOULD REQUIRE

Vague appeals to a bullet's reliability trade on an ambiguity between two very different claims, so it helps to separate them before turning to the evidence.

The weak claim is that a rifle, mechanically, will discharge when triggered more reliably than an IV line will find a usable vein. That claim is almost certainly true and almost entirely beside the point.

The strong claim, the one legislators needed for their humaneness argument to work, is that a bullet fired from that rifle will strike the specific location necessary to cause rapid unconsciousness and death every time, regardless of the psychological state of the shooter, the movement of the condemned person in the chair, and the variability of three human beings independently aiming at a target roughly the size of a fist from five yards in South Carolina or ten in Idaho. These are not the same claim, and the gap between them is where South Carolina's 2025 executions landed.

The Protocol, as Idaho Designed It

Idaho's firing squad protocol, released by the Department of Correction ahead of the July 1, 2026 effective date, calls for the team leader to load one live round into a magazine for each of the three weapons. On the command to fire, the team discharges simultaneously: a design feature meant, as in other jurisdictions, to diffuse individual responsibility for the fatal shot, since no shooter can know with certainty that his own round struck a vital location, or struck at all.[1]

The condemned person is offered a sedative the night before and again within four hours of the execution, then restrained in the execution chair, where a target is affixed over the heart. The execution team consists of three primary shooters, two alternates, and a team leader responsible for supervising the team and preparing the firearms.[2]

The department's qualification standards are demanding on their face: a minimum of three years of Peace Officer Standards and Training certification, no firearms or use-of-force disciplinary action in the preceding twelve months, and a marksmanship test requiring one hundred percent accuracy from a minimum of seven yards against a target matching the size, shape, and height of the one that will be used in

an actual execution.[3] A volunteer who cannot hit that target with every round from every assigned firearm fails and is not permitted to serve.

The execution itself is carried out from approximately ten yards, twice the distance from which South Carolina's three shooters fired at Brad Sigmon and Mikal Mahdi. South Carolina positions its shooters fifteen feet from the chair. Idaho has doubled that.[4]

The protocol requires a volunteer to prove himself at a minimum of seven yards, then asks him to fire from ten. The department may well qualify its officers at the full ten. Nothing in the standard requires it to, and nothing the department has published says whether it does. A state that has staked a humaneness argument on millimeter-level accuracy wrote a qualification floor three yards short of the shot it intends to take and published no data on whether accuracy holds across the difference.

Three yards is a small distance in the abstract. It is not small when the target is the size of a fist, when the standard the state set for itself was one hundred percent rather than something lower, and when the one documented failure of this method in the modern era involved rounds that struck below where they were aimed.

On paper, this looks like the engineered reliability the certainty argument requires: trained officers, a demonstrated marksmanship standard, a fixed and short distance, a stationary and restrained target. If the promise of certainty were going to hold anywhere, it should hold under conditions this controlled. It did not hold in South Carolina, under conditions that were, in every material respect, the conditions Idaho has now built.

BRAD SIGMON: THE VERSION THAT MOSTLY WORKED

On March 7, 2025, Brad Sigmon became the first person executed by firing squad in the United States in fifteen years. Three volunteers from the South Carolina Department of Corrections fired simultaneously.[5] Witnesses described a jagged red mark, roughly the size of a small fist, appearing where the target had been, and Sigmon's body flinching and moving several times before going still. A doctor came out within a

minute, examined him, and pronounced him dead at 6:08 p.m., three minutes after the shots.[6]

When the state's commissioned autopsy was later reviewed by NPR reporters and by attorneys for a subsequent prisoner, it documented three distinct bullet wounds, all near Sigmon's heart, along with x-rays, internal organ photographs, and clothing analysis.[7]

The case should not be overstated. On the available record, Sigmon's execution is the closest thing this cohort produced to the outcome the certainty promise describes: three shooters, three wounds, all in the intended vicinity, death declared within roughly three minutes. If this were the entire record, Idaho's legislators would at least have a defensible, if still troubling, evidentiary basis for the claim that the method works as designed when the shooters do their part. It is not the entire record. It is one data point out of three, and the next one broke the pattern.

Mikal Mahdi: The Version That Did Not

Mikal Mahdi was executed on April 11, 2025, thirty-five days after Sigmon, at the same facility, using the same three-shooter protocol, the same target, and the same fifteen-foot distance, under the same qualification standard for the officers involved.[8] The outcome was different in ways the state's own commissioned autopsy could not fully hide, even though the documentation provided to Mahdi's attorneys was thinner than what had followed Sigmon's death: one photograph of Mahdi's torso, rather than the full set of x-rays, internal imagery, and clothing analysis produced in Sigmon's case.[9]

That single photograph showed two bullet wounds in Mahdi's lower chest. Not three. Two. Both sat just above the border with the abdomen, an area that does not largely overlie the heart. The state's pathologist, Dr. Marcus Bradley, recorded a note that it was believed two bullets had entered through a single wound, an explanation the pathologist Mahdi's lawyers commissioned did not accept.[10]

What both reviews agreed on is the part that decides the question. The wound tracks ran downward and to the right, through the left lobe of the liver, the pancreas, and the lower left lung. Fragments perforated the right ventricle, but no round struck the heart the way the protocol requires, and Mahdi's heart went on beating after the volley.[11]

David Weiss, one of Mahdi's attorneys, was present as a witness. He described Mahdi sitting down and pushing against his restraints when the curtain opened, and recalled thinking, even before the shots, that the target on Mahdi's chest looked positioned lower than it should have been. When the shots came, Mahdi cried out. He then began breathing heavily, groaning multiple times over roughly forty-five seconds to a minute, before his body went still.[12] Jeffrey Collins, the Associated Press reporter who witnessed the execution, corroborated the account: Mahdi cried out after the shots, groaned audibly on two more occasions, and continued visibly breathing for approximately eighty seconds afterward.[13]

Dr. Jonathan Arden, the forensic pathologist Mahdi's attorneys retained, concluded that only two bullets had struck him and estimated that he experienced conscious pain and suffering for somewhere between thirty and sixty seconds, and potentially longer, given the injuries documented and the time required for that degree of internal damage to become fatal without a direct heart strike.[14] Arden called the single-entrance explanation extraordinarily uncommon, noting that two bullets through one hole would leave a larger and more irregular wound than the photographs show.[15]

Weiss put the remaining uncertainty in its simplest form: "It's not fully clear what happened. Did one of the gunmen not fire that one? Did their gun get jammed? Did they miss? We just have no idea at this point."[16] The South Carolina Department of Corrections did not respond to a request for comment on the discrepancy, and it maintains that all three rounds were fired and that the protocol was followed.[17]

STEPHEN BRYANT: THE VERSION THAT APPEARS TO HAVE WORKED

Seven months after Mahdi, on November 14, 2025, South Carolina carried out its third firing squad execution. Stephen Corey Bryant declined to make a final statement. He glanced at the witnesses, the hood went over his head, and the shots came roughly fifty-five seconds later. By every account from the witness room, he made no sound. Witnesses watched the red bullseye fly forward off his chest, saw a few shallow breaths, and then a final spasm a little over a minute later. A doctor checked him with a stethoscope, and he was pronounced dead at 6:05 p.m., three minutes after the volley.[18]

I include Bryant for the same reason I included Sigmon: an argument that this method is unreliable is worth nothing if it counts only the failures. On the face of the witness record, Bryant's execution did what Idaho's legislators said the method would do.

Two qualifications belong beside that. The first is that no autopsy in his case had been released publicly as of this writing, so what is available is an eyewitness account rather than a pathology report.[19] The second follows from the first and carries more weight. The discrepancy in Mahdi's case was invisible from the witness room. Witnesses saw a man who had been shot and who then died. It took a pathologist looking at the body to establish that two wounds existed where three shooters had fired, and that no round had struck the heart as intended. Whatever the witness record shows about Bryant, it belongs to the category of evidence that has already failed once to detect a failure.

So the sample in South Carolina is three, and it reads like this. One execution the documentary record shows went as designed. One the documentary record shows did not. One that appears to have gone as designed, on evidence of a kind that has already proven unable to see a failure when there was one. That is the entire modern evidentiary basis for the promise of certainty, and it is the basis on which Idaho built a room.

WHAT ROBIN MAHER'S ASSESSMENT ACTUALLY MEANS

Robin Maher, executive director of the Death Penalty Information Center, an organization that takes no institutional position for or against capital punishment but is widely regarded across the political spectrum as the most reliable clearinghouse of execution data in the country, summarized South Carolina's 2025 cohort for Idaho reporters in the run-up to the changeover. Of the three firing squad executions the state carried out that year, she said, two went badly. In the same conversation, she noted that in at least one case only two of the intended bullets were found to have struck the prisoner, and that neither had hit the heart directly. "So it tells you," she said, "that the firing squad is not a foolproof method."[20]

Maher has made the same point more broadly and in writing: every execution method in American history was introduced with an unfulfilled promise of being foolproof and more humane than whatever it replaced.

Her count and mine differ, and the difference should be stated rather than smoothed over. Only Mahdi's execution produced a documentary record establishing failure. Bryant's had produced no released autopsy at the time she spoke, and his attorneys had raised their own objections to how it was carried out; whether it belongs in the same column as Mahdi's is a question the state's slowness to release the pathology has left open. My accounting in the preceding section is the more conservative one, and I will stand on it rather than on hers. It does not need to be two out of three to be damning. One out of three, documented and autopsied, is already a rate no state would tolerate in any other procedure it performs on a restrained human being.[21]

The phrase "not a foolproof method" understates the stakes. This is not a product recall notice about a washing machine that occasionally leaves a load damp. This is an execution method that, in the most recent and most rigorously documented cohort of cases available anywhere in the country, failed to strike its intended target in one of the three executions where anyone was in a position to check. If a surgical

procedure, a parachute rig, or a commercial aircraft's landing gear failed in anywhere near that proportion of real-world uses, no legislature would describe it on the floor as certain.

A FAILURE RATE WITH MILITARY PRECEDENT

The certainty problem documented in South Carolina's 2025 executions is not a novel discovery specific to modern American corrections departments. Military historians have documented the same failure mode for as long as organized armies have used firing squads to carry out battlefield executions, most extensively during the First World War, when thousands of soldiers on multiple sides were shot for desertion, cowardice, and mutiny.[22]

The historical record of those executions includes a specific procedural feature: many military protocols placed a designated officer on standby, tasked with delivering a final shot if the volley failed to kill the condemned soldier outright, a procedure often called the coup de grâce. Documented British courts-martial executions describe exactly that sequence: a medical officer examining the condemned after the volley, finding him not yet dead, and a subaltern or lieutenant stepping forward to fire the finishing shot.[23]

The existence of that officer, and that procedure, is the clearest historical acknowledgment available that a trained firing squad, even one composed of soldiers under military discipline, does not reliably produce an instant death on the first volley. Armies that used this method for over a century built a backup role into the protocol because they knew, from repeated direct experience, that the primary method would sometimes fail to finish the job.

Idaho's protocol includes no equivalent role. There is no officer stationed with a sidearm, ready to deliver a follow-up shot if the volley from the gun ports fails to produce the certain, instant death the state has promised. The absence is not an oversight; it would be a strange and macabre thing for a modern corrections department to write into an execution protocol. But it also means that if Idaho's shooting team

produces the outcome South Carolina's produced with Mikal Mahdi — wounds that do not reach the heart and a body that continues functioning for the better part of a minute — there is no institutionally sanctioned mechanism to finish what the volley did not. The condemned person would be left to die, or not, from the wounds the volley inflicted, monitored by the same doctor who placed the target, with no protocol-sanctioned recourse beyond waiting.

WHY THE FAILURE RATE IS NOT AN ANOMALY

It would be a mistake to treat Mahdi's execution as a single bad outcome, an unlucky roll of the dice against an otherwise reliable system. The structural reasons a firing squad is prone to this kind of failure are not mysterious, and they follow from the protocol's own design choices.

First, the simultaneous-fire design that exists to diffuse individual accountability also diffuses individual precision. When three shooters fire at once, on a single verbal command, under the pressure of knowingly killing a restrained human being at close range, the ordinary human tendency toward flinching is neither eliminated nor meaningfully controlled for. A marksman who can hit a stationary paper target with calm, unhurried, repeated practice on a range is being asked to perform the same physical task once, under conditions no qualification test can replicate: knowing that the target is a living person, secured and possibly sedated but not anesthetized, who may flinch, sag, or shift in the chair at the moment of the command.

Second, the target is a marker roughly the size of a fist, pinned over a heart that sits, in the actual human chest, at an angle and position that varies between individuals depending on body size, posture in the restraint chair, and how the straps happen to be positioned. That is a difficult thing to strike with total reliability even under laboratory conditions, let alone the conditions of an execution. Weiss's observation, that the target on Mahdi appeared to be placed lower than it should have been, points to the vulnerability directly: placement is itself a human judgment, made once, under time pressure, and an error of a

few centimeters is enough to produce the outcome Mahdi's autopsy documented.

Third, and most damaging to the certainty argument, South Carolina's General Assembly amended its execution-secrecy statute, S.C. Code § 24-3-580, in 2023 through Senate Bill 120, broadening confidentiality to cover not just drug suppliers but any person or entity directly or indirectly involved in the planning or execution of a death sentence, with the courts instructed to construe that protection broadly.[24] The ACLU of South Carolina has since sued to challenge the statute's scope, arguing that it has chilled potential whistleblowers among execution-team members and left the public unable to learn even basic facts about how a given execution was carried out.[25] The public, and even the condemned person's own attorneys, cannot verify after the fact whether the shooters who missed Mahdi's heart met any particular standard of proficiency, whether they had ever fired a weapon in this context before, or whether the state's internal review, if one exists, identified a correctable cause.

The Sample Size Problem, and Why It Cuts Against the State

A careful reader might object that these conclusions rest on a small sample: three executions, one of which appears to have gone largely as intended. Is it sound to speak of a failure rate from a sample that size? The objection deserves to be taken seriously, and the answer cuts against the state's position rather than for it.

Three is indeed too small to establish a precise failure rate with statistical confidence, in the way a pharmaceutical trial with thousands of participants might. But the smallness of the sample is not a reason for confidence in the method's reliability. It is a reason for the opposite. Idaho's legislature was not being asked to evaluate a method with a decades-deep evidentiary base showing consistent performance across hundreds of applications. It was being asked to adopt, as its primary method, a technique whose entire modern American track record, at the time of the vote, consisted of two data points close enough in time and

protocol to be genuinely comparable, one of which had already produced a documented, autopsied failure.

An institution facing that little evidence, on a decision this irreversible, would ordinarily treat the uncertainty itself as a reason for caution. Idaho's legislature inverted that logic, treating the paucity of adverse long-term data as permission to act rather than as a reason to wait for more, a decision that only makes sense if the goal was never certainty in the first place, but the appearance of having addressed a documented problem quickly and visibly.

IDAHO'S WAGER

Idaho's legislature voted on House Bill 37 in February and March of 2025, before any of these executions had taken place. The House voted on February 6 and the Senate on March 5. Brad Sigmon was shot two days later, and Mikal Mahdi five weeks after that. In the narrow moment of the vote, Idaho's legislators had no modern record to consult.

But the statute did not take effect for another fifteen months, and the entire record described here became public inside that window. The autopsy findings were reported by NPR and the Death Penalty Information Center by May 2025, more than a year before Idaho's law took effect.[26] Idaho's qualification protocol, requiring three years of certification and a perfect marksmanship test, is in most respects at least as rigorous as anything South Carolina required of the officers who missed Mikal Mahdi's heart. No engineering change in Idaho's protocol addresses the structural vulnerabilities just described: the simultaneous-fire diffusion of precision, the human variability of target placement, or the shield-law opacity that prevents public verification of what went wrong when it does.

What Idaho has built is not a more certain method than the one that failed in South Carolina. It is the same method, with the same structural vulnerabilities, deployed by a state that watched those vulnerabilities produce a documented, autopsied period of conscious suffering in another state, and voted anyway.

That is not a claim about incompetence. Idaho's Department of Correction is not less capable than South Carolina's. It is a claim about what "certain" was always going to mean in practice: not zero failures, but a failure rate the state has decided it can live with, because the alternative, another decade of botched IV attempts like Thomas Creech's, was judged to be worse. The next chapter takes up what that trade costs the person on the receiving end of a missed shot, in the currency of pain, consciousness, and time.

NOTES

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2. "IDOC outlines firing squad procedures as new policy nears implementation," rexburgstandardjournal.com, June 2026; "As Idaho Reinstates Firing Squad, Volunteers Sought for Executions," La Voce di New York, July 3, 2026; "Idaho Is the Only US State to Make Firing Squad Its Default Execution Method — Now It Needs Volunteers to Pull the Trigger," IBTimes UK, June 2026.

3. "Idaho details how firing squad executions will work under new state policy," KIVI-TV, June 11, 2026; "New Rules and Training Requirements Released for Idaho's Firing Squad," KPVI, June 12, 2026; "IDOC outlines firing squad procedures as new policy nears implementation," rexburgstandardjournal.com, June 2026.

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5. "South Carolina executes Brad Sigmon in first US firing squad execution in 15 years," Associated Press (Jeffrey Collins), March 7, 2025.

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9. Death Penalty Information Center, "Lawyers Raise Concern as Autopsy Finds South Carolina's Second Firing Squad Execution May Have Been Botched," May 13, 2025.

10. Chiara Eisner, NPR, May 8, 2025; "SC firing squad 'largely missed' cop killer Mikal Mahdi's heart, attorneys say autopsy shows," *Post and Courier*, May 2025 (Dr. Marcus Bradley performed the autopsy commissioned by the South Carolina Department of Corrections and noted his belief that two bullets followed a single pathway).

11. *Post and Courier*, May 2025 (describing the two recorded wound pathways, running through the heart sac, right ventricle, diaphragm, left liver lobe, pancreas, and left lower lung); Chiara Eisner, NPR, May 8, 2025; CBS News, May 8, 2025.

12. Chiara Eisner, NPR, May 8, 2025 (quoting attorney David Weiss).

13. Chiara Eisner, NPR, May 8, 2025 (citing Associated Press reporter Jeffrey Collins's witness account).

14. Death Penalty Information Center, May 13, 2025; CBS News, "Man executed by firing squad was conscious for up to a minute after bullets missed target, lawyers say," May 8, 2025.

15. NBC News, "S.C. inmate's firing squad execution was 'botched,' with bullets mostly missing his heart, lawyers say," May 9, 2025; *Post and Courier*, May 2025.

16. Chiara Eisner, NPR, May 8, 2025 (quoting attorney David Weiss).

17. Chiara Eisner, NPR, May 8, 2025; South Carolina Public Radio, November 14, 2025 (the department's position that all three rounds were fired and the protocol followed).

18. "South Carolina executes third person by firing squad this year," South Carolina Public Radio, November 14, 2025; "South Carolina executes killer who left bloody message, marking third firing-squad execution this year," CBS News, November 14, 2025.

19. *Post and Courier*, "SC slow to release autopsy after execution that inmate's lawyers say was botched," November 2025.

20. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026 (quoting Robin Maher, Executive Director, Death Penalty Information Center).

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23. "Capital Punishment, Posthumous Punishment and Pardon — Remembering and Disremembering the Dead," NCBI Bookshelf; Findmypast, "Shot at Dawn: Men and Boys 'Absent Without Leave' During World War 1," May 28, 2024.

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CHAPTER 7

The Second Promise — Humanity

* * *

Representative Skaug's argument on the floor of the Idaho House rested on a chain of three words treated as though they were interchangeable: sudden, quick, and certain.[1] The last chapter dealt with certainty. This one deals with the other two, and with the deeper claim underneath all three, that speed alone is sufficient to make an act humane. It is not, and the record already built supplies the evidence.

WHAT A BULLET ACTUALLY DOES

A rifle round fired into a human chest at close range causes death quickly through one of two pathways. Either it does massive, immediate damage to the heart itself, stopping its pumping action outright, or it does catastrophic damage to the major blood vessels near the heart, starving the brain of oxygen within seconds, so that unconsciousness follows within roughly ten to fifteen seconds and death soon after. Both pathways depend on the bullet striking the heart or the great vessels directly.

That is the premise of the target pinned over the chest. Shooters are not aiming generally at the torso. They are aiming at a marker roughly

the size of a fist because the intended mechanism of death requires that precision. When the bullet misses that mark, even by a margin most people would consider small, the physiology changes, and it changes in a direction opposite to humane on any definition that treats speed and lost consciousness as morally relevant.

Mikal Mahdi's autopsy is the clearest documented illustration available. The rounds ran downward through his liver, pancreas, and lower left lung, with fragments perforating the right ventricle, and his heart went on beating.[2] This was not a glancing miss in the sense of bullets going somewhere far off target; the wounds were still in his chest and upper abdomen. But a few centimeters of difference in trajectory meant the difference between a mechanism of death that stops the heart directly and one that relies on internal bleeding from organ damage, a process that can take minutes rather than seconds, during which a person remains conscious, in pain, and aware, to whatever degree the body's physiology permits, of what is happening to him.

Dr. Jonathan Arden, the pathologist Mahdi's attorneys retained, estimated thirty to sixty seconds of conscious suffering, a figure that represents a floor rather than a ceiling given the gaps in South Carolina's documentation.[3] Eyewitnesses described Mahdi crying out at the moment of impact, then breathing heavily and groaning multiple times over the following minute, his body visibly working to keep functioning around damage that was going to kill him but was not killing him instantly.[4]

WHAT TRAUMA MEDICINE ALREADY KNEW

None of what Mahdi's autopsy revealed should have surprised anyone familiar with basic trauma medicine, and that is the point. Trauma surgeons and emergency physicians have understood for decades that the difference between a rapidly fatal gunshot wound and a slow one is almost entirely a matter of which specific structures a bullet strikes, not which general region of the body it enters.

A wound to the heart's chambers or the aorta produces death within seconds to a couple of minutes, as the central pump fails or blood loss starves the brain of oxygen. A wound to the liver, the organ Mahdi's autopsy found macerated, can produce fatal blood loss over a considerably longer period, because the liver, while heavily vascularized and capable of bleeding seriously, performs no immediately indispensable pumping function. Trauma centers exist, in significant part, because a meaningful share of liver gunshot wounds are survivable with prompt surgical intervention, which underscores how far Mahdi's injuries were from being instantaneously fatal in the way the target's placement was designed to guarantee.

This is not exotic knowledge available only to forensic pathologists after the fact. It is the ordinary working knowledge of any emergency physician, and it was foreseeable, before Mahdi was ever strapped into the chair, that a few centimeters of deviation would produce not merely a less tidy wound but a different physiological event, on a different timeline, with different implications for how long the person shot remains conscious.

Idaho's marksmanship standard treats accuracy as a binary: hit the target or fail. It does not, because it cannot, treat the consequence of a near-miss as anything other than an afterthought, since the entire premise of the qualification test is that a near-miss will not happen if the shooter is good enough. Trauma medicine already knew, before Idaho built its chamber, that near-misses are not rare anomalies in real-world shooting involving human targets under stress. They are a predictable share of outcomes, and the medical literature describing what happens when they occur sat in the same libraries and databases that later informed the reporting on Mahdi's autopsy.

THIRTY TO SIXTY SECONDS

That window deserves dwelling on, because the architecture of the certainty and humanity arguments depends on the public not dwelling on it. Thirty to sixty seconds sounds, described in the abstract, like a

short interval. It is not short from the inside of it. A minute of conscious awareness that your body has been catastrophically injured and that death is approaching but has not yet arrived is not a minor procedural footnote. It is very likely among the most acutely painful and terrifying experiences a human nervous system can register, compressed into a period the state chose to inflict by aiming a rifle at a target it knew was not guaranteed to land where intended.

Compare that to the standard Representative Skaug offered on the floor: sudden, quick, and certain.[5] Even granting the most generous reading of Sigmon's execution, three wounds near the heart and death declared within roughly three minutes, "quick" is already doing more work in that sentence than the evidence supports. Applied to Mahdi's documented experience, the word does not describe what happened. A minute of conscious, groaning, visibly struggling suffering is not sudden. It is not quick by any definition a person would apply to his own death if he were the one experiencing it rather than legislating about it in the abstract.

WHAT "INVOLUNTARY MOVEMENT" IS ASKED TO EXPLAIN

States defending botched executions of every method have developed a specific rhetorical strategy for the visible suffering witnesses report, and it recurs across nitrogen hypoxia, lethal injection, and now the firing squad alike. The state characterizes visible movement, gasping, groaning, or convulsing as involuntary, a medically technical-sounding term meant to reassure witnesses and the public that what they saw was reflexive rather than a sign of conscious suffering.

Alabama officials have made exactly this argument in litigation and public statements surrounding the state's nitrogen executions, describing movements witnesses reported as either the prisoner actively resisting or as involuntary movements associated with dying, a formulation the state repeated across multiple 2025 executions, including in the run-up to the October 23, 2025 execution of Anthony Boyd.[6] South Carolina's own materials, and the pattern of official

statements from Idaho documented in these pages, follow the same shape: whatever the witnesses saw, the state's position is that it does not indicate what it appears to indicate.

Be precise about what "involuntary" can and cannot tell us, because the term does real medical work in some settings and considerably less in others. Some reflexive movements can occur in a body that has already lost consciousness, a genuine phenomenon separate from purposeful, pain-driven movement. But involuntary is not synonymous with painless or unconscious. A person can be fully conscious and in severe pain while a specific muscular response is, in the narrow physiological sense, involuntary, in the same way a hand might jerk away from a hot stove while its owner remains fully aware of the burn.

The state's use of the word to describe Mahdi's crying out, his groaning, and his labored breathing does not resolve the question the pathologist raised. It reclassifies the visible evidence in language that sounds clinical without answering the clinical question a witness or a family member would most want answered: was he aware of what was happening to him. On Arden's estimate of thirty to sixty seconds of conscious suffering, the answer is yes.

The Comparison the State Wants, and the One It Avoids

Every defense of the firing squad's humaneness that Idaho's legislators offered was comparative: the firing squad is more humane than a botched lethal injection, more humane than eight failed attempts to find a vein in Thomas Creech's arm, more humane than the documented cases of prisoners whose lungs filled with fluid after a drug meant to stop their hearts instead produced, according to a review of more than two hundred execution autopsies, a sensation doctors have compared to drowning.[7]

That comparison is not manufactured out of nothing. The cases behind it — Clayton Lockett, Doyle Hamm, Alan Miller, and the others — are real, and the suffering they document is real. But notice the comparison the state consistently avoids. The question is not whether

the firing squad is more humane than a botched lethal injection. It is whether killing a restrained person by any method is compatible with a claim of humaneness at all, and, failing that broader question, whether the firing squad is actually more humane than the method it is replacing, or merely differently unreliable.

The previous chapter answered the second question. The firing squad's failure mode in South Carolina, a thirty-to-sixty-second period of conscious suffering following a missed shot, is not obviously preferable, on humaneness grounds, to a botched lethal injection's failure mode, a longer and more clinical process of struggling for breath as pulmonary edema sets in. Both are failures of the same underlying claim: that a state can engineer a reliably painless and instantaneous method of killing a person who does not want to die. The firing squad has not solved that problem. It has relocated it, from the venous system to the ballistic trajectory, and the relocation carries its own documented failure mode.

IDAHO'S OWN DATA, HAD IT CHOSEN TO ASK

Nothing prevented Idaho's Department of Correction from commissioning an independent review of the South Carolina autopsy record before finalizing its protocol, engaging a forensic pathologist to examine what was publicly available about Sigmon's and Mahdi's executions and produce an assessment of the risk Idaho's own version of the method carried. No public record indicates that the department did so.

The qualification standards address marksmanship. They do not address the physiological question the department's public materials never engaged with: what happens, medically, when the shot lands a few centimeters from where it is aimed, and how long the resulting process takes. This is not a technically difficult question to have answered. Trauma surgeons and forensic pathologists exist in every state, Idaho included, and a state building a 1.2 million dollar chamber to perform this exact procedure could have commissioned that review before

construction began, rather than after the fact, in response to litigation or journalism, the way South Carolina's documentation emerged.

That Idaho did not, so far as the public record shows, is not proof of bad faith. It may reflect an assumption, unexamined and unstated, that the marksmanship standard alone was sufficient to guarantee the outcome the legislature had promised. But the absence of that inquiry is itself a choice, and if it goes wrong, it will be measured in the same currency Mikal Mahdi's autopsy was measured in.

Humanity Is a Property of Acts, Not Instruments

There is an argument here that goes beyond the medical evidence, because the evidence, however damning, risks obscuring a simpler point. The debate over which execution method is more humane than another proceeds from an assumption I do not accept: that humaneness is a property that can be engineered into an instrument, the way a manufacturer might engineer a seatbelt to be more effective at preventing injury in a crash.

A seatbelt's purpose is to protect a person from harm. An execution method's purpose is to kill a person who has been rendered helpless to resist. These are not analogous problems, and the language of humane execution borrows the moral vocabulary of harm reduction and applies it to an act whose purpose is to cause the ultimate harm. A humane trap, in ordinary usage, is one designed to kill an animal as quickly and painlessly as possible, because the animal's suffering serves no purpose anyone defends; the goal is to end a life that must be ended with as little cruelty as the situation allows.

Applying that framework to a conscious, legally competent adult who is restrained specifically so that he cannot resist his own killing asks us to accept a premise that most people, examined outside the context of capital punishment, would probably not accept: that the state's interest in killing this particular person is uncontroversial, and that the only

remaining moral question is the manner of delivery. I do not accept that premise, and these pages do not ask the reader to accept it either.

But even granting it, for the sake of argument, in order to evaluate the firing squad on its own advocates' terms, the evidence shows that the delivery mechanism does not reliably achieve the thing its defenders claim for it. There is no humane way to reliably fail to achieve a quick, unconscious death for some meaningful share of the people subjected to the method. On its own record it is an execution method that sometimes works quickly and sometimes does not, deployed by a state that has decided the gamble is acceptable because the alternative gamble, a failed lethal injection, is judged to carry worse optics.

What Idaho Chose to Ignore

Idaho's Department of Correction, in its public materials ahead of July 1, 2026, did not engage with the thirty-to-sixty-second window documented in Mahdi's autopsy. It did not engage with Weiss's account of Mahdi crying out, groaning, and struggling to breathe for roughly eighty seconds. The public case for the firing squad's humaneness, built by Representative Skaug and echoed in local press coverage, rested almost entirely on the theoretical mechanism — a bullet through the heart causes fast unconsciousness — rather than on the documented distribution of outcomes when that mechanism fails to fire true.[8]

This is not a subtle omission. It is the single most important piece of evidence available to anyone evaluating the humaneness claim, and it is missing from the record Idaho's legislature built to justify House Bill 37.

I do not think the omission was accidental, and I do not think it requires bad faith to explain either. It is what happens when an institution needs a policy to be true and has the power to control which facts reach the public record supporting it. The next chapter turns to that control directly, and to the third promise, because the gap just documented, between the theoretical mechanism legislators described and the autopsied reality South Carolina produced, does not close itself.

It has to be actively managed, behind hoods and shields and pull-shades.

NOTES

1. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026 (quoting Rep. Bruce Skaug).

2. Chiara Eisner, "A firing squad tried to shoot a prisoner in the heart. They missed, autopsy indicates," NPR, May 8, 2025; "SC firing squad 'largely missed' cop killer Mikal Mahdi's heart, attorneys say autopsy shows," *Post and Courier*, May 2025.

3. Death Penalty Information Center, "Lawyers Raise Concern as Autopsy Finds South Carolina's Second Firing Squad Execution May Have Been Botched," May 13, 2025; CBS News, May 8, 2025.

4. Chiara Eisner, NPR, May 8, 2025; "Witnesses recount harrowing final moments of Mikal Mahdi's execution by firing squad in SC," WACH, April 12, 2025.

5. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026.

6. "Alabama sets date for sixth execution of 2025," Alabama Reporter, August 19, 2025; "Alabama sets October execution using nitrogen gas," Associated Press (Kim Chandler), August 18–19, 2025; "Alabama inmate maintains innocence ahead of execution by nitrogen for 1993 murder," Associated Press, October 8, 2025; "Alabama executes man with nitrogen gas for 1993 murder over $200 drug debt," Associated Press, October 23, 2025 (execution of Anthony Boyd).

7. "Gasping For Air: Autopsies Reveal Troubling Effects of Lethal Injection," NPR, September 21, 2020 (review of more than two hundred execution autopsies finding pulmonary edema in 84 percent of cases); Death Penalty Information Center, "NPR Investigation of Lethal-Injection Autopsies Finds Executed Prisoners Experience Sensations of Suffocation and Drowning."

8. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026; Chiara Eisner, NPR, May 8, 2025.

CHAPTER 8

The Third Promise — Honesty

* * *

Of the four promises under examination here, honesty is the one made most often by the firing squad's more sophisticated defenders rather than by its legislative sponsors, and it deserves to be taken more seriously than the other three, because it contains a real insight before it collapses into its own contradiction.

The argument runs like this. Lethal injection dresses killing up as medicine, with a gurney that looks like a hospital bed, an IV line, and a curtain that opens onto something staged to resemble a clinical procedure. The firing squad does not pretend. It is a gun, aimed at a person, fired by other people, and everyone in the room knows what is happening.

There is a version of that argument I find persuasive, and it deserves its strongest form before I show why Idaho's and South Carolina's actual protocols do not earn the candor they claim.

THE CASE FOR THE GUN'S CANDOR

Lethal injection's medical costume is not incidental to its design. It was chosen, in the 1970s and 1980s, because legislators and corrections

officials wanted a method that would not look like killing to the witnesses and the public watching from outside the chamber. A person lying on a gurney, an IV line taped to the arm, drugs administered by someone who in earlier decades was sometimes described in official materials as delivering a treatment: all of it borrows the visual signals our culture associates with medicine, with care, with the alleviation of suffering rather than its infliction.

That borrowing is a form of dishonesty, whatever one believes about capital punishment generally. A method engineered to resemble something it is not, in order to make its witnesses more comfortable with what they are watching, is a euphemism made physical.

The firing squad does not offer that euphemism. There is no gurney dressed as a hospital bed. There is a chair, straps, a wall with gun ports, and a target. Nobody watching a firing squad execution can mistake it for medical care. In that narrow sense, the method's advocates have a point, and I do not want to pretend otherwise. The bluntness of the gun is, compared to the euphemism of the needle, a kind of candor.

WHERE THE CANDOR ENDS

But candor about the instrument is not candor about the process, and at the level of process, Idaho's and South Carolina's protocols reveal themselves to be exercises in deliberate concealment, no less managed than lethal injection's medical theater, just managed toward a different aesthetic.

Consider the hood. In South Carolina's documented protocol, a prison employee places a hood over the condemned person's head before the curtain to the shooters' window is opened.[1] The hood serves no function related to the mechanics of killing; it does not make a bullet more or less lethal. Its function is representational. It prevents the condemned person from seeing the shooters and, as importantly, prevents the shooters from having to look into the eyes of the person they are about to kill.

That is the deliberate removal of the single piece of information — mutual eye contact between killer and victim — that would most completely puncture the psychological distance the protocol is engineered to preserve. A truly candid execution, in the sense the method's defenders claim to want, would require no hood at all. The hood exists because the architects of this protocol understood that total candor, shooter and condemned looking directly at one another in the moment before death, would be unbearable for the people asked to pull the triggers, and so they built in a mechanism to prevent it.

The same logic governs the black pull-shade covering the gun ports, opened only at the last possible moment, and the wall separating the shooters from the room where witnesses and the condemned person sit. The shooters' faces are never seen by anyone in the witness gallery. Their identities, under shield laws passed in South Carolina in 2023 and mirrored in Idaho's own statutory framework, are protected from public disclosure entirely.[2]

Chapter 11 examines what that anonymity does to the officers themselves. The point here is simpler: a method whose central actors are legally shielded from identification is not a candid method. It has moved its concealment from the condemned person's arm, where the needle goes in, to the shooters' identity, where the public is prevented from ever learning who fired the shots that missed Mikal Mahdi's heart.

Where the Medical Costume Came From

The origin of lethal injection's medical costume sharpens the argument considerably, and it is worth setting down.

In 1977, an Oklahoma state legislator named Bill Wiseman, troubled by the media spectacle surrounding Gary Gilmore's firing squad execution in Utah earlier that year, asked the state's medical examiner, a forensic pathologist named Jay Chapman, whether there might be a more humane way to kill a condemned person than a firing squad, an electric chair, or a gas chamber.[3] Wiseman later described his motive in stark terms: having voted for the death penalty's reinstatement for what

he called political reasons despite believing it wrong, he decided that if the state was going to do the wrong thing, it should at least do it in a way that did not look, in his words, like a big horrible thing.[4]

Chapman was not a pharmacologist, an anesthesiologist, or an execution specialist of any kind. By his own later account, he devised a three-drug protocol — a barbiturate, a paralytic, and a drug to stop the heart — within days, based on his general medical training rather than any specialized study of how to kill a human being painlessly. He did consult an anesthesiologist at Oklahoma University Medical School, Stanley Deutsch, who reviewed and approved the proposal before Wiseman took it to the legislature. But the design was Chapman's. Deutsch's role was review rather than drafting, and Deutsch himself later expressed doubts about how the protocol was being administered.[5] Chapman described the limits of his own qualification for the task with unusual bluntness, telling one interviewer that he was an expert in dead bodies, not in producing them.[6]

The Oklahoma legislature passed a bill based on his proposal in May 1977. Other states, and eventually much of the rest of the world's remaining death penalty jurisdictions, adopted essentially the same recipe over the following decades.

The irony bears directly on the honesty argument. Lethal injection's medical costume — the gurney, the IV line, the appearance of a clinical procedure — was not developed by anyone with genuine medical expertise in producing a painless death. It was developed, within days, by a medical examiner responding to a legislator's discomfort with the optics of a different method, the firing squad, that had just generated unwelcome national media attention. Chapman has since criticized the protocol that bears his name, warning as early as 1977 that improperly administered doses could leave a condemned person conscious and in severe pain, and reflecting decades later that the entire episode was, in his own words, "a blip, a very, very minor blip" on the work he did, one he never expected would be adopted so widely.[7]

The point is not that Chapman acted in bad faith. By all available accounts, he was asked a good-faith question and gave a good-faith, if medically underdeveloped, answer. The point is that the method Americans have spent nearly five decades treating as the serious, scientific, medically credible alternative to the firing squad was, at its origin, as improvised as the method it was designed to replace, devised in response to the same kind of bad publicity that is now pushing states back toward the gun. The medical costume was real in the sense that it borrowed medical imagery. It was never real in the sense of resting on medical expertise about how to kill a person without pain.

Idaho's turn to the firing squad in 2025 and 2026 is not a departure from a rigorously developed medical standard. It is a return to the same improvisational, publicity-driven process that produced the standard in the first place, running in the opposite direction.

The Doctor Returns

Perhaps the clearest evidence that the firing squad's candor is staged rather than genuine is a detail documented in multiple accounts of South Carolina's 2025 executions. The target pinned over the condemned person's heart is positioned not by a corrections officer or a member of the shooting team but by a doctor, using a stethoscope to locate the precise point of maximum cardiac impulse before placing the marker.[8]

The method sold to the public as an unmedicalized alternative to lethal injection's clinical theater requires, at its most critical procedural step, a physician performing a medical examination to ensure the kill point is correctly identified. The firing squad has not escaped medicine. It has moved the doctor from administering the lethal substance to certifying the target, a change in the doctor's role but not in medicine's presence. It did so, one suspects, for the same reason lethal injection's designers wanted a gurney that looked like a hospital bed: because precision requires expertise, and expertise, in this context, means a clinician.

Rehearsal Against Cardboard

Idaho's qualification standard requires volunteers to hit, with one hundred percent accuracy, a target of the same size, shape, and height as the one that will be used in an actual execution.[9] Before Idaho ever fires a shot at a living person, its shooting team will have practiced, repeatedly, against an inanimate object built to the specifications of a human chest with a heart-sized target affixed to it.

This is not, in itself, an unreasonable training method; one would not want the state's first attempt at this task to be the execution itself. But it cuts against the candor claim. A method whose defenders describe it as uniquely unwilling to hide behind procedure in fact requires a substantial infrastructure of simulation, drilling, and practiced routine, built so that the actual event feels, to the people performing it, like something they have already done many times before. That is the opposite of candor. It is desensitization, engineered deliberately, so that the shooters' hundred-and-first shot, the one fired at a person, feels procedurally identical to their hundredth, fired at cardboard.

The Witness's View, and What It Cannot See

Even the witnesses invited to observe, the group whose presence is often cited as evidence of the method's transparency, see far less than the honesty claim implies. In South Carolina's documented protocol, witnesses sit behind bulletproof glass, in a room separate from the shooters, watching a curtain open onto a person already hooded, already restrained, already reduced to a target with a marker on his chest. They do not see the shooters. They do not see the moment the target is placed, or by whom. They see, in Jeffrey Collins's account of Sigmon's execution, an abrupt crack of rifles they were not warned to expect, a target disappearing, a body flinching, and then a doctor emerging some minutes later to confirm death.[10]

That witness experience is curated as tightly as any lethal injection viewing has ever been, arguably more tightly, since a lethal injection

witness can typically see the person's face throughout the process, while a firing squad witness watches a hooded figure whose face is hidden from the moment the process begins.

WHAT THE PUBLIC SEES VERSUS WHAT THE STATE SAYS IT SEES

There is a final layer of managed concealment, and it operates not on the witnesses inside the chamber but on the public consuming coverage afterward. States that use the firing squad have paired the method's visual bluntness with tightly controlled official communications, communications that witnesses' own accounts frequently contradict in their particulars.

South Carolina's official statements following Mahdi's execution did not mention the discrepancy in autopsy documentation described in Chapter 6. That information reached the public because journalists and defense attorneys pushed for it, not because the state volunteered it. Idaho's own pattern, established in its handling of Thomas Creech's failed execution, has the same shape: an official statement, delivered promptly, framing what happened in the most institutionally favorable light available, followed, sometimes months later, by additional detail that complicates or contradicts that framing, usually surfacing through litigation, journalism, or advocacy rather than through voluntary disclosure.

That two-tier information structure, an immediate official narrative and a slower, harder-won corrective record, is itself a form of the dishonesty under discussion, operating at the level of public communication rather than physical architecture. The hood conceals the shooters from the condemned person and the witnesses in the room. The state's communications strategy conceals the full picture from everyone else, for as long as it can, on the same logic: control what is seen and control it for as long as possible, because the full picture, released promptly and completely, would not support the certainty and humaneness claims the state has staked its legislative program on.

IDAHO'S VERSION OF THE SAME CONCEALMENT

Idaho's protocol, finalized ahead of the July 1, 2026 effective date, follows the architecture South Carolina pioneered: gun ports screened until the moment of firing, a target positioned over the heart, restraints, and shooters whose identities remain protected under the state's execution secrecy statutes.[11] Nothing in Idaho's public materials suggests any departure from that pattern.

If anything, Idaho's 1.2 million dollar purpose-built chamber represents a more thoroughly engineered version of what South Carolina assembled on shorter notice: sandbags positioned with more permanence, gun ports designed into the original construction rather than retrofitted, a facility built from the ground up to manage what witnesses, the condemned, and the public can and cannot see.

WHAT CANDOR WOULD ACTUALLY REQUIRE

Take the honesty argument on its own terms, which is the clearest way to expose its emptiness. If a state genuinely believed that the firing squad's core virtue was its refusal to hide what it is doing, that state would have no need for a hood, no need for a shield law protecting shooter identities, no need for a black pull-shade, no need for bulletproof glass between witnesses and the act. A genuinely candid execution, by the logic the method's defenders themselves supply, would happen in full view: the condemned person's face visible throughout, the shooters' faces visible to the witnesses and the public record, no curtain, no shade, no hood, nothing concealed.

No state that has adopted the firing squad — not South Carolina, not Utah, not Idaho — has built anything resembling that level of transparency, because no state wants it. What every one of these jurisdictions has built instead is a method that trades one set of concealments, the medical costume of the gurney and the IV line, for another: the hood, the shield law, the pull-shade, the doctor certifying the target with a stethoscope before anyone else is allowed to look.

The firing squad is not honest. It is differently dishonest, and its dishonesty serves the function lethal injection's medical theater has always served: making it possible for the people who authorize, prepare, and carry out an execution to do so without having to confront, in real time and without mediation, what they are doing to another human being.

The next chapter turns to the fourth promise, free choice, and asks what it can mean for a condemned person to select this method, hooded and shielded as it is, from a menu every item of which the state itself designed.

NOTES

1. "This is how South Carolina performs its firing squad execution," Associated Press, April 10, 2025.

2. Death Penalty Information Center, "Lawyers Raise Concern as Autopsy Finds South Carolina's Second Firing Squad Execution May Have Been Botched," May 13, 2025; S.C. Code Ann. § 24-3-580, as amended by 2023–2024 S.C. Senate Bill 120; on Idaho, see Chapter 13 and Appendix B.

3. "'Father of lethal injection' talks about history, his legacy to Oklahoma," Tulsa World, June 12, 2025; "Meet A. Jay Chapman, Whose Lethal Injection Recipe Has Helped Kill 1,200 People," Fordham Law News, May 3, 2017; Human Rights Watch, *So Long as They Die: Lethal Injections in the United States* (2006) (Chapman had no expertise in pharmacology or anesthesia); Deborah W. Denno, "The Lethal Injection Quandary: How Medicine Has Dismantled the Death Penalty," 76 Fordham L. Rev. 49 (2007) (interview with Chapman).

4. NPR, "The Executioner's Lament" (transcript), reporting Bill Wiseman's account of voting for capital punishment's reinstatement and seeking a quick, clean alternative to the electric chair.

5. "Lethal Injection Creator Jay Chapman on Botched Executions," Time, February 2026; "Meet A. Jay Chapman, Whose Lethal Injection Recipe Has Helped Kill 1,200 People," Fordham Law News, May 3, 2017.

6. Ty Alper, "What Do Lawyers Know About Lethal Injection?," 1 Harv. L. & Pol'y Rev. (Online), March 3, 2008, citing Deborah W. Denno, "The Lethal Injection Quandary: How Medicine Has Dismantled the Death Penalty," 76 Fordham L. Rev. 49, 66 (2007).

7. "'Father of lethal injection' talks about history, his legacy to Oklahoma," Tulsa World, June 12, 2025 (Chapman's contemporaneous 1977 warning that improper administration could leave a prisoner conscious and in pain); "Lethal Injection Creator Jay Chapman on Botched Executions," Time, February 2026.

8. "South Carolina death row inmate executed by firing squad," Live5News / WCSC, April 11–12, 2025 (describing the target-placement protocol); "A South Carolina man is executed by firing squad for 2004 killings," Associated Press, November 14, 2025 (a white square with a red bullseye is placed over the heart by a doctor).

9. "Firing squad set to become primary method of execution in Idaho," CBS2 / IdahoNews.com, June 2026.

10. "South Carolina executes Brad Sigmon in first US firing squad execution in 15 years," Associated Press (Jeffrey Collins), March 7, 2025.

11. "IDOC outlines firing squad procedures as new policy nears implementation," rexburgstandardjournal.com, June 2026; "Idaho details how firing squad executions will work under new state policy," KIVI-TV, June 11, 2026 (on shooter anonymity under Idaho law).

CHAPTER 9

The Fourth Promise — Free Choice

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Brad Sigmon chose the firing squad. So did Mikal Mahdi. So did Stephen Corey Bryant. Each man, given a menu of three methods by South Carolina law — lethal injection, electrocution, or the firing squad — selected the bullet, and each selection has been reported, understandably, as a meaningful fact about that man's agency in the final weeks of his life.

Sigmon's lawyers said he chose the firing squad because he feared a repeat of the documented lethal injection complications other South Carolina prisoners had suffered, and because the state's electric chair, more than a century old, carried its own history of malfunction.[1] Mahdi's attorneys said he feared dying burned and mutilated in the chair, or enduring a prolonged death strapped to a gurney, and so selected what he judged, of three bad options, to be the least terrible.[2]

I do not doubt that these were genuine choices in the narrow sense that each man weighed real information about three real methods and arrived at a preference. The question is whether choice, used in that narrow sense, can bear the moral weight the method's defenders ask it to carry: the weight of making an execution more legitimate, more

consensual, more acceptable because the person being killed selected the instrument of his own death from a list the state compiled.

THE MENU WAS NOT THE PERSON'S TO WRITE

Start with the basic fact about the arrangement. Under South Carolina law, a person convicted of a capital crime is sentenced to die by electrocution unless he elects, in writing, either the firing squad or lethal injection, if lethal injection is available. If he makes no election, the statute defaults him to electrocution.[3]

Every item on that menu ends in the same outcome. The condemned person cannot select a fourth option, life, or a fifth, some method not on the state's approved list. His agency is bounded entirely within a set of alternatives the legislature designed, and designed, as the preceding chapters have shown, with known and documented failure modes in every case.

Asking a person to choose between three ways of being killed and then describing the result as a free choice about his own death performs a kind of moral laundering. It takes an act the state has already decided to carry out regardless of the condemned person's wishes and relocates a fragment of decision-making authority to him at the one point, method selection, where that authority costs the state nothing and changes nothing about the fact of the killing.

This is not a novel observation, and I claim no originality for it. Legal scholars have made a version of it for decades regarding plea bargains, where defendants choose to plead guilty in exchange for a lesser sentence under circumstances in which the alternative, a trial carrying a vastly harsher penalty if convicted, makes the choice functionally coerced even though no one held a gun to the defendant's head to extract the plea. The parallel to method-of-execution selection is closer than it might first appear, and in the firing squad's case darker, because here someone genuinely is about to hold a gun, not metaphorically, to the person making the choice.

WHAT MAHDI FEARED, AND WHAT IT TELLS US

Mahdi's stated reasoning illustrates the point with unusual clarity. His attorneys said he rejected the electric chair because he feared dying burned and mutilated, and rejected lethal injection because he feared a prolonged death strapped to a gurney, a fear grounded in a substantial and growing public record of botched lethal injections producing exactly that outcome.

His selection of the firing squad was not an affirmative preference for being shot. It was an attempt to avoid two other, more thoroughly feared outcomes, using the best information available to him about which of three bad deaths might be least bad.

That the firing squad then produced, in his own case, the kind of prolonged, conscious suffering he was trying to avoid by rejecting lethal injection is not merely a bitter irony. It is direct evidence that the choice South Carolina offered him was not a mechanism for securing a better outcome, because the information available to him at the moment of choosing, however carefully he weighed it, could not tell him what has since been documented: that the firing squad's failure rate, in this cohort, was comparable to or arguably worse than the risks he was trying to avoid. He chose the option that felt, on incomplete information and understandable fear, like the safer bet. The state let him make that bet, collected his signature on the selection form, and then delivered him an outcome close to indistinguishable in its cruelty from the one he had tried to avoid.

RAMIREZ, AND THE DIFFERENCE BETWEEN REAL AND HOLLOW AUTONOMY

The hollow version of choice sits against a genuine expansion of condemned people's autonomy that the Supreme Court recognized a few years before Sigmon's execution.

In *Ramirez v. Collier*, 595 U.S. 411 (2022), the Court held, by a lopsided eight-to-one margin, that a Texas death row prisoner named

John Henry Ramirez was likely to succeed on his claim under federal religious liberty law to have his pastor pray aloud and lay hands on him during his execution, over the state's objection that any physical presence near the gurney posed an unacceptable security risk.[4] The Court held that Texas had failed to show its blanket restriction was the least restrictive way to address its security concerns, and that a condemned person's spiritual practice in the final moments of his life deserved substantive legal protection rather than a symbolic nod.

I have stood in that role, spiritual advisor to a person about to be executed, in thirteen execution chambers now, and I can say directly what *Ramirez* protects: a form of agency that costs the condemned person nothing in terms of the outcome, since the execution proceeds either way, but that restores something real and non-instrumental to the person experiencing it, the presence of another human being, a voice, a hand, in the last minutes of a life the state has already decided to end. That is genuine autonomy, narrow as it is, because it does not depend on the state's convenience and it changes nothing about the reliability or humaneness of the killing itself. It insists that even a person the state has decided to kill retains some sphere of dignity the state must accommodate.

Method-of-execution selection is not this. It is autonomy offered only within a set of options the state constructed, each of which ends in death, several of which are independently documented to carry a meaningful risk of prolonged conscious suffering, and none of which the condemned person had any role in designing. Calling that a choice in the same breath one invokes *Ramirez* collapses two very different things into a single comforting word.

THE DEADLINE ITSELF IS PART OF THE COERCION

The procedural mechanics make the coercion more concrete than an abstract discussion of menus might suggest. Under S.C. Code § 24-3-530, once the state Supreme Court sets an execution date, the condemned person's written election of method is due fourteen days

before that date or it is waived; if no election is filed, or if the right of election is waived, the statute specifies that the penalty must be administered by electrocution.[5] Mikal Mahdi had roughly two weeks before his scheduled date to choose among lethal injection, electrocution, and the firing squad, a window that maps directly onto the statute's requirement.[6]

That default structure does more than it appears to. It does not merely present three options and allow the condemned person to select among them at leisure. It imposes a deadline, under conditions of extraordinary psychological duress, on a person newly informed of the exact date of his own death, and it backstops that deadline with a default outcome designed, one suspects, to make the deadline felt as a genuine threat rather than a bureaucratic formality.

A condemned person who becomes too overwhelmed to submit a timely election, who cannot bring himself to sign a form selecting his own method of death, does not thereby preserve some default protection. He is assigned the method South Carolina's own legislative history suggests is the least favored of the three: a structure that functions less like an offer than like a threat wrapped in the language of choice. Choose within days, under the shadow of imminent death, or receive the method your own hesitation has selected for you.

COERCION DOES NOT REQUIRE A SINGLE COERCER

A careful reader will have an objection ready: nobody forced Sigmon or Mahdi to select the firing squad specifically; each could, in principle, have chosen lethal injection or accepted the electric chair by default. Doesn't that make the selection free, in whatever sense matters?

I do not think so, and the reason takes us back to first principles about what makes a choice coerced. Coercion does not require a single actor holding a gun to someone's head and demanding a specific answer. A choice is coerced when every available option is imposed by a party with total power over the chooser, when the chooser cannot opt out of the underlying situation, and when the party presenting the options

benefits from the appearance of consent regardless of which option is selected.

All three conditions are satisfied here. South Carolina and Idaho both impose the underlying situation entirely. The condemned person cannot opt out of being executed by declining to choose a method, since a default kicks in automatically. And the state benefits, reputationally and legally, from being able to say that the condemned person chose his own death, regardless of which of the three state-designed methods he selected. This is coercion distributed across a menu rather than concentrated in a single demand, and dressing it in the language of choice does not change its structure.

THE IRONY OF MAHDI'S SELECTION

Mahdi's case contains one further turn. He selected the firing squad in significant part because he did not want to die burned and mutilated in South Carolina's century-old electric chair, a fear rooted in that method's documented history of visible physical trauma to the body. His attorneys' account of his reasoning suggests a man trying, within an impossible set of choices, to preserve some measure of dignity for his body even in death, choosing the option he believed least likely to leave him disfigured.

The autopsy that followed found that the bullets had not struck his heart as intended, running instead through his liver and abdominal organs, producing not the clean, contained wound the target's placement was designed to guarantee but an internal injury pattern his own attorneys had to argue about with the state's pathologist.

Mahdi did not end up burned or mutilated in the way he feared the electric chair might leave him. But neither did he receive the quick, clean death the firing squad's advocates promise. He received something in between: a documented, internally messy, extended dying process that his own choice, made in good faith with the best information available to him, was designed to avoid. That is more than tragic in the individual case. It is the clearest illustration available that a menu of three flawed

options does not become meaningfully safer to navigate because the person choosing among them chooses carefully, when the flaws are ones the chooser has no way to see in advance and no power to correct once selected.

WHAT IDAHO HAS NOT YET HAD TO TEST

Idaho's statute, unlike South Carolina's, does not offer condemned prisoners an affirmative selection among methods. The firing squad is the default, with lethal injection available only if the firing squad proves unconstitutional or unavailable. Idaho has, for now, avoided even the appearance of offering its death row prisoners the hollow choice just described.

Whether that is a moral improvement or merely a more honest admission of the state's actual position — that the condemned person's preferences were never going to constrain the outcome — is a judgment I will leave to the reader. What I will say is this. If Idaho's legislature or courts eventually add an affirmative selection mechanism modeled on South Carolina's, the public should recognize it for what Chapter 8 has shown the hood and the shield law to be, and what the preceding pages have shown the choice itself to be. Not an expansion of dignity. A more comfortable story the state gets to tell about an outcome it had already decided on before the condemned person was ever asked to pick.

Part Two has now walked through all four promises — certainty, humanity, honesty, and choice — and shown each to fail on the state's own evidence, produced by the state's own commissioned autopsies and its own legislative floor debates. Part Three turns from the general argument to the specific people the argument is about: the eight human beings on Idaho's death row, the officers who will be asked to shoot them, the witnesses who will watch, and the money and litigation the state has already committed to a method it built knowing everything documented so far.

NOTES

1. "South Carolina is set to execute another inmate by firing squad, one month after first such execution in decades," CBS News, April 9, 2025.

2. "S.C. inmate's firing squad execution was 'botched,' with bullets mostly missing his heart, lawyers say," NBC News, May 9, 2025; "SC firing squad 'largely missed' cop killer Mikal Mahdi's heart, attorneys say autopsy shows," *Post and Courier*, May 2025 (statements by Mahdi's attorneys regarding his reasons for choosing the firing squad).

3. S.C. Code Ann. § 24-3-530(A) (2025); "South Carolina Supreme Court upholds constitutionality of methods of carrying out death penalty sentences," WLTX, July 31, 2024.

4. *Ramirez v. Collier*, 595 U.S. 411 (2022).

5. S.C. Code Ann. § 24-3-530(A) (2025) (fourteen-day election deadline and default-to-electrocution provision).

6. "South Carolina is set to execute another inmate by firing squad, one month after first such execution in decades," CBS News, April 9, 2025; "South Carolina executes second man by firing squad in 5 weeks," PBS NewsHour (Associated Press), April 11, 2025 (describing South Carolina's method-election procedure and deadline).

PART III

IDAHO

Whatever a state's execution protocol is, it will eventually be applied to this exact and particular set of human beings, not to a hypothetical worst of the worst that legislative floor debates like to invoke.

CHAPTER 10

The Men of F-Block, and the One Woman in Pocatello

* * *

Every argument made so far — about certainty, about humanity, about honesty, about choice — is ultimately an argument about what will happen to eight specific human beings, seven held at the Idaho Maximum Security Institution and one held roughly two hundred and fifty miles away at the Pocatello Women's Correctional Center. They should be named here, with what is publicly known about the crimes that brought each of them to death row, because a state's paperwork tends to reduce a person to a case number and an offense category, and I do not want to do the same thing while claiming to argue against the state's dehumanizing machinery.

As I said in the introduction, naming these people and their crimes is not an argument for their innocence, and I take no position here on whether any individual conviction was just. Some of what follows describes acts of real and terrible violence. My argument has never depended on the condemned being innocent, or sympathetic, or wrongly convicted. It depends on a narrower claim: that the method

Idaho intends to use on these eight people, regardless of what they did to arrive on this list, does not perform as advertised, and that this failure should weigh on anyone evaluating the state's chosen instrument, independent of how anyone feels about the underlying sentences.

THE ROSTER

As of this writing, in July 2026, Idaho's death row holds eight people.[1]

Thomas Eugene Creech, whose case Chapter 2 told in detail, is the longest-serving among them. He killed David Dale Jensen in 1981; the death sentence came in 1983, and IDOC's roster lists it as January of that year.

Timothy A. Dunlap has been on death row since April 1992, sentenced to death in Idaho for the 1991 murder of bank teller Tonya Crane during a robbery at a Soda Springs bank, and separately sentenced to death in Ohio for the murder of his girlfriend, Belinda Bolanos, ten days earlier.

James Hairston has been on death row since November 1996, sentenced at the age of twenty, then the youngest person under sentence of death in Idaho, for the shooting deaths of William and Dalma Fuhriman, an elderly couple killed at their farmhouse near Downey in Bannock County.

Gerald Pizzuto Jr. has been on death row since 1986, the longest tenure in the group apart from Creech's, convicted of the 1985 killings of Berta Herndon and her nephew Delbert Herndon, a fifty-eight-year-old woman and her thirty-seven-year-old nephew who had gone into the Idaho mountains to prospect for gold when Pizzuto came upon them.

Jonathan Daniel Renfro has been on death row since 2017, sentenced for shooting and killing Coeur d'Alene Police Sergeant Greg Moore at close range in 2015.

Robin Row has been on death row since December 1993, convicted of the arson deaths of her estranged husband Randy and her two children, ten-year-old Joshua and eight-year-old Tabitha, found dead of carbon monoxide poisoning in their Boise apartment. She is the only

woman currently under sentence of death in Idaho and is held apart from the men, at Pocatello.

Chad Daybell is the most recent addition, sentenced in June 2024 for the murders of his first wife, Tammy Daybell, and his current wife Lori Vallow's two children, seven-year-old J.J. Vallow and sixteen-year-old Tylee Ryan, a case that drew sustained national media attention because of the couple's doomsday religious beliefs.

The eighth prisoner, Azad Abdullah, has been on death row since 2004, convicted in Ada County of murdering his wife, Angie Abdullah, in their Boise home in 2002 and then setting the house on fire while children slept inside, in what prosecutors said was an effort to conceal the killing.[2]

A ninth man, Erick Hall, was on death row as recently as early 2026 but died in custody in February of that year, before any execution could be carried out.[3]

I list these cases together, briefly and factually, because the list itself makes an argument. These are not eight interchangeable abstractions. They are a woman convicted of killing her own children, a police officer's killer, a man who has been dying slowly of cancer in a hospice unit inside a maximum security prison, a public figure whose trial was covered by television crews from across the country, and a man old enough to be several of the others' grandfather, sentenced under laws and social conditions that existed before some of his own prosecutors were born. Whatever a state's execution protocol is, it will eventually be applied to this exact and particular set of human beings, not to a hypothetical worst of the worst that legislative floor debates like to invoke.

The Weight of Decades

The figure that should stop any reader here is time. Pizzuto has been on death row for forty years. Dunlap and Row have each been there for more than three decades. Creech has been imprisoned since 1974 and continuously under this death sentence since 1983.

These are not anomalies particular to Idaho. More than half of all prisoners currently under sentence of death nationwide have been there for more than eighteen years, according to the Death Penalty Information Center's own tracking.[4] But Idaho's numbers sit at the extreme end even of that already-extreme national pattern, and the reason is not, primarily, that these cases involved unusually complex legal questions. It is that Idaho, like many states, has spent decades unable to reliably carry out the sentences its courts and juries handed down: first because of drug shortages, then because of a botched execution, then because of the year and a half spent building a new chamber. The condemned did not create that institutional dysfunction. They have lived inside it, for decades, waiting.

What this does to the moral character of a death sentence is not a procedural footnote. A jury that sentences a twenty-year-old man to death, as happened with James Hairston in 1996, is sentencing that specific person, at that moment in his life, on a judgment about who he was and what he had done. It is not sentencing the man approaching fifty he will have become by the time, if ever, the state carries the sentence out.

Decades of appeals, stays, and institutional failure do not merely delay an outcome. They apply a form of punishment — prolonged uncertainty about the date and manner of one's own death, stretched across a majority of a person's adult life — that no jury voted for and no statute explicitly authorizes. That is punishment by attrition, and it falls with particular weight on people like Pizzuto and Creech, whose bodies have continued aging and, in Pizzuto's case, failing, inside the very system built to end their lives on a schedule it has never managed to keep.

AGAINST THE "WORST OF THE WORST" FRAMING

Legislative floor debates over capital punishment, Idaho's included, lean heavily on a rhetorical shorthand: that the death penalty, whatever its imperfections, is reserved for the worst of the worst, a small number of

uniquely irredeemable offenders whose crimes place them beyond the reach of any lesser punishment. The roster just presented does not obviously support it.

Some of these crimes are, by any reasonable measure, at the extreme end of human cruelty: Row's killing of her own young children, the burning of Officer Myers's body in South Carolina, Mahdi's killing spree across two states. Others sit less comfortably inside that framing once examined closely, though not always as neatly as an abolitionist might wish.

Timothy Dunlap's crime carried genuinely aggravating features. He killed Tonya Crane with a close-range shotgun blast during a bank robbery, and he had killed a second victim, his girlfriend, in Ohio ten days earlier. A prosecutor could fairly call it a paradigmatic capital case. Yet it is not obviously more severe, on its face, than a great many armed robberies and murders that do not result in a death sentence, in Idaho or elsewhere. What distinguished Dunlap's case procedurally was less the crime's uniqueness than the specific charging and sentencing decisions made by prosecutors and juries in Caribou County and in Ohio. That is not a claim that his sentence was unjust. It is an observation that "worst of the worst" is doing more rhetorical work in the legislative debate than the actual roster of condemned people can bear, and that a great deal turns, in practice, on prosecutorial discretion, jury composition, and the specific advocacy available to a given defendant.

The point is not to relitigate any individual sentence. It is that the framing does real work in debates like the one that produced House Bill 37. It reassures legislators and the public that the method under discussion will only ever be applied to a small, uniquely deserving population, making the documented risks feel more abstract and more bearable. The actual roster — a woman who killed her children, a man convicted during a bank robbery decades ago, a man dying of cancer in hospice care, a man whose trial dominated national television — suggests a more complicated reality. Whoever ends up in Idaho's chair will be as varied, and as human, as the eight people named here, not a

uniform class of monsters a legislature can reason about in the abstract.

Gerald Pizzuto and the Argument His Own Body Makes

Pizzuto's case deserves particular attention, because his litigation history intersects with two central concerns: the reliability of Idaho's execution apparatus, and the question of spiritual accompaniment I have spent my working life practicing.

Idaho issued three separate death warrants for Pizzuto over the years and postponed every one of them, at least once because the state could not acquire the drugs it needed. Since 2019, by the most recent public reporting available, Pizzuto has been receiving hospice care inside the prison system for late-stage bladder cancer — more than six years, over the course of which doctors who initially estimated he had about a year to live have repeatedly been proven wrong.[5] That raises a question entirely apart from execution method: what it means for a state to continue pursuing an execution against a man its own medical system has assessed as terminally ill and receiving palliative care.

Pizzuto also filed a legal claim, following *Ramirez v. Collier*, seeking the right to have a spiritual advisor present in the execution chamber itself.[6] The Idaho Department of Correction voluntarily agreed to accommodate that request in his specific case, without changing its underlying written policy, which still does not guarantee the accommodation as a matter of course. When the department later moved to dismiss the resulting lawsuit as moot, on the theory that Pizzuto had gotten what he asked for, his attorneys argued the case needed to stay alive precisely because the written policy had not changed, meaning the next person in his position might not receive the same voluntary accommodation. A district court disagreed and dismissed the case.

As someone who has spent years fighting exactly this kind of battle in exactly this kind of courtroom, I can tell you how familiar that pattern is. A state grants an individual accommodation just generously enough to moot the lawsuit that would have forced it to guarantee that

accommodation for everyone else. It is a strategy rather than a mercy, and it recurs throughout the history of spiritual advisor litigation. In 2026 the state would deploy the same strategy on a far larger scale, passing a law widely understood as designed to moot a separate Pizzuto challenge to its execution protocol before the Idaho Supreme Court could rule on it, a development Chapter 13 takes up in detail.

Pizzuto's attorneys have also made a request bearing directly on the argument of this book: they have asked the federal court to bar Idaho from attempting another execution of Thomas Creech, on the theory that Creech is a material witness whose own case demonstrates the state's continuing inability to carry out an execution without violating constitutional protections against cruel and unusual punishment.[7] One condemned man's failed execution has become, in the hands of another condemned man's lawyers, legal evidence about the unreliability of the entire system both men are caught inside. That is the argument of the first nine chapters, now playing out as active federal litigation, brought not by outside advocates but by the people the system is preparing to kill.

Azad Abdullah, and the Uneven Distribution of Attention

Of the eight people named above, Azad Abdullah has attracted the least public attention over the years. That does not mean the record is thin.

An Ada County jury convicted Abdullah in November 2004 of first-degree murder, first-degree arson, three counts of attempted first-degree murder, and injury to a child, for the October 2002 killing of his wife, Angie Abdullah, in the family's Boise home, followed by his setting the house on fire with children inside; prosecutors said the fire was set to conceal the crime.[8] The forensic pathologist who conducted the autopsy determined that Angie had died before the fire, of asphyxiation. Testimony at trial described a marriage in collapse: Angie had recently consulted a divorce attorney, and Abdullah had tried to sell the family home and its contents in the months before her death. The Idaho Supreme Court affirmed his convictions and death sentence in an

opinion running to nearly two hundred pages in 2015, and his attorneys have since alleged that the prosecution withheld exculpatory evidence for sixteen years.[9] There is, in short, a substantial public record.

What distinguishes Abdullah's case is not the absence of documentation but the absence of sustained national attention, and that unevenness illustrates something true about how attention distributes itself across a death row population. Cases that attract national television coverage, like Daybell's, or decades of high-profile litigation and advocacy, like Creech's and Pizzuto's, generate an enormous public conversation. Others do not, for reasons that likely have more to do with the dynamics of media attention than with any difference in the severity of the underlying crime or the strength of the case.

A reader who finishes these pages having heard a great deal about the national spectacle surrounding Daybell and comparatively little about Abdullah is experiencing, in miniature, the unevenness that characterizes public knowledge of capital punishment nationally. Some cases become symbols, endlessly discussed. Others proceed through the same machinery largely unremarked upon, known in detail only to the people directly involved and to the courts that reviewed them.

The People Left Behind

I have organized the roster around the condemned, because that is the population Idaho's new chamber is built to receive. But I do not want to leave the impression that the people harmed by these eight individuals' crimes are incidental to the argument, and victims' families do not speak with one voice on what justice requires.

In South Carolina, Meredith Barnett, the daughter of Orangeburg Public Safety Captain James Myers, the man Mikal Mahdi killed and burned in a shed on his own property in 2004, spoke publicly ahead of Mahdi's execution. "It's difficult to talk about taking someone else's life," she said, "but I do feel like that's justice."[10] That statement should stand on its own terms rather than be argued out of. Barnett lost her father to a documented act of extraordinary cruelty, grew up without

him, and has every right to hold the view she holds about what his killer deserved. Nothing in this argument is meant to tell Meredith Barnett that her grief, or her sense of what justice requires, is illegitimate.

What the argument does insist on is narrower: that whatever one believes justice requires in the abstract, the method Idaho has chosen to deliver it does not reliably do what its own advocates promise, and that this failure has consequences independent of how sympathetic or unsympathetic the person on the receiving end may be.

Jonathan Renfro murdered a police officer, Sergeant Greg Moore, at close range in 2015, leaving behind colleagues and a family whose loss is real and ongoing.[11] Robin Row's case sits in a different register entirely, because the people she is condemned for killing, her own husband and two young children, were also, in a sense, hers to grieve, a fact that makes her case resistant to the tidy victim-and-perpetrator framing that fits more easily around cases like Mahdi's or Renfro's. I raise these distinctions not to rank the condemned by the sympathy their victims deserve, which is not a project I undertake, but to insist that the reader hold both truths at once: that real people were gravely harmed by what these eight individuals did, and that the state's chosen method for responding to that harm remains exactly as unreliable, however justified the underlying sentence.

Robin Row, Alone in Pocatello

Robin Row occupies a singular position, and two opposite temptations are worth resisting in describing it: the temptation to treat her case as somehow less serious because she is a woman, and the temptation to treat her isolation, held alone among Idaho's condemned at a facility two hundred and fifty miles from the men's row, as incidental rather than structurally significant.

Row was convicted of killing her estranged husband and her two young children by arson, a crime whose details are almost unbearable to sit with regardless of one's position on capital punishment. She has been on death row since 1993, more than three decades, and she is, as of this

writing, the only woman under sentence of death in the state. She was also sentenced by a judge under a scheme later held unconstitutional.

Her singularity bears on the argument, because it means that whatever protocol Idaho eventually applies to her, should her case ever reach an execution date, will be a protocol designed, tested, and refined almost entirely around the bodies of men. The target placement, the restraint chair, the marksmanship qualification standards: all of it has been built and rehearsed against a body type and physical configuration that may not match hers in the ways that count for a method whose entire certainty claim rests on millimeter-level target accuracy. I raise this not to suggest Row deserves special leniency the men do not, but to note a specific and underexamined way the certainty promise may be even less reliable than the South Carolina data already suggests, if it is ever applied to the first woman any state's modern firing squad protocol has been used on.

James Hairston, Three Decades Later

Hairston's case puts the weight of decades in its starkest form. He was twenty years old when he was sentenced to death in 1996, at the time the youngest person under sentence of death in Idaho. He is, as of this writing, approaching fifty, having spent essentially his entire adult life, from late adolescence through middle age, on Idaho's death row.

Whatever judgment a jury made about the twenty-year-old man in 1996, that jury did not and could not have rendered any judgment about the person Hairston has become across thirty years of incarceration under sentence of death, a person who has, by the simple passage of time, spent more years awaiting execution than most Americans spend in any single career.

None of which is an argument that his sentence should be commuted, a question I have consistently declined to adjudicate. It is an observation about what the sentence has become. A 1996 jury voting to sentence a twenty-year-old to death was not voting, and could not have been voting, to have that sentence carried out against a man nearing fifty,

three decades later, in a room built for a method that did not exist in any state's statute at the time. The gap between what juries authorize and what states eventually do, stretched across enough time, becomes its own kind of transformation, and the legal system has never adequately reckoned with it.

Erick Hall, and the Death Sentence Nobody Carried Out

One case remains: Erick Hall, who was on Idaho's death row as recently as early 2026 and died in state custody in February of that year, before the Department of Correction ever carried out his sentence. Public reporting at the time attributed his death to natural causes; the Ada County Coroner later determined he had died of a stroke.[12] He died, as a substantial share of American death row prisoners eventually do, of causes unrelated to the sentence a jury once handed down, his case still working through the appeals process.

Hall's death bears on the argument in a way that has nothing to do with the firing squad specifically and everything to do with the broader system the firing squad sits inside. A meaningful number of the people American states sentence to death never reach an execution chamber at all. They die first, of cancer like the one slowly working through Gerald Pizzuto's body, of heart disease, of stroke, of age, of the ordinary attrition of a human life lived out across decades inside a maximum security prison.

Idaho spent more than 1.2 million dollars and fourteen months building a room engineered to kill people quickly and certainly. Given the pattern documented above, Erick Hall may well not be the last person on Idaho's row to die of something other than the method the state built that room to deliver. The state's entire certainty argument assumes the bullet is the variable that matters. For a meaningful share of the eight people named here, the variable that determines how their case ends may simply be time, and the ordinary mortality no legislature can engineer around, no matter how many gun ports it cuts into a wall.

The next chapter turns from the condemned to the people the state has recruited to shoot them: who they are permitted to be, what the state requires of them, and what the act the state is asking them to perform has been documented to do to the people who perform it.

NOTES

1. Idaho Department of Correction, "Death Row," idoc.idaho.gov (eight residents under sentence of death; seven men at the Idaho Maximum Security Institution, one woman at the Pocatello Women's Correctional Center); Death Penalty Information Center, "Idaho," deathpenaltyinfo.org.

2. Case details in this paragraph are drawn from primary court records and contemporaneous reporting. Dunlap: *State v. Dunlap*, 125 Idaho 530 (1993), and *Dunlap v. State*, Idaho Supreme Court (2022); "Who is on death row in Idaho?" East Idaho News, March 24, 2023. Hairston: "Judge Sentences Man to Death — 20-Year-Old James Hairston Killed Elderly Couple for Money," Spokesman-Review, November 16, 1996; *State v. Hairston*, 133 Idaho 496 (1999). Pizzuto: Idaho Office of the Attorney General, "Media Advisory: Attorney General Raúl Labrador Obtains New Death Warrant," April 11, 2024. Renfro: "Jury convicts Jonathan Renfro of murdering Coeur d'Alene Police Sgt. Greg Moore," Spokesman-Review, October 13, 2017. Row: *State v. Row*, 131 Idaho 303 (1998). Daybell: "Chad Daybell: Death sentence for man convicted of triple-murder," CNN, June 1, 2024. Abdullah: *State v. Abdullah*, 158 Idaho 386, 348 P.3d 1 (2015); "Man gets death penalty in killing of his wife," Spokesman-Review, November 24, 2004.

3. Idaho Department of Correction, "IDOC issues notice of death of death row inmate," February 10, 2026.

4. Death Penalty Information Center data on death row tenure, as cited by KTVB, "'There has been a real loss of confidence and support': Experts weigh in on death penalty in Idaho," April 25, 2024.

5. "Gerald Pizzuto Jr. commutation request denied by Governor Little," KTVB, December 30, 2021 (Pizzuto placed on hospice care in 2019, with doctors then estimating about a year to live); Death Penalty Information Center, "Idaho: New Death Sentence, Updates on Executions, and Lethal Injection Drug Purchase," March 14, 2025.

6. DPIC, March 14, 2025; *Ramirez v. Collier*, 595 U.S. 411 (2022).

7. DPIC, March 14, 2025.

8. *State v. Abdullah*, 158 Idaho 386, 348 P.3d 1 (2015); "Man guilty of murder of his wife," Spokesman-Review, November 20, 2004; "Man gets death penalty in killing of his wife," Spokesman-Review, November 24, 2004.

9. *State v. Abdullah*, 158 Idaho 386 (2015) (affirming convictions and sentence); "Who is on death row in Idaho?" East Idaho News, March 24, 2023 (reporting the

2020 allegation that the Ada County Prosecutor's Office withheld evidence favorable to Abdullah).

10. Live 5 News/WCSC, "South Carolina death row inmate executed by firing squad," April 11–12, 2025 (quoting Meredith Barnett); "Facing the Past: Victim's daughter reflects as SC execution looms," Live 5 News, April 11, 2025.

11. "Jury convicts Jonathan Renfro of murdering Coeur d'Alene Police Sgt. Greg Moore," Spokesman-Review, October 13, 2017.

12. Idaho Department of Correction, "IDOC issues notice of death of death row inmate," February 10, 2026; "Death row inmate Erick Hall died from a stroke, reports coroner," KTVB, February 21, 2026.

CHAPTER 11

The Shooters

* * *

Somebody has to pull the trigger. Every preceding chapter has circled that fact without confronting it directly, and it deserves a chapter of its own, because the moral weight of an execution does not disappear when it is distributed across six human beings — three primary shooters, two alternates, and a team leader who loads the rifles — instead of concentrated in a single executioner. It is redistributed, and understanding where it lands, and what it does to the people it lands on, is part of taking this method seriously.

From Open Volunteers to a Professional Class

When Idaho first authorized the firing squad as a backup method in 2023, the statute framed participation in explicitly voluntary terms, open in principle to a broad pool of willing participants. By the time the Department of Correction finalized its protocol ahead of the July 1, 2026 effective date, that framework had narrowed considerably.

Idaho's shooting team is now drawn specifically from trained, POST-certified law enforcement officers rather than from an open call

for civilian volunteers, a decision the department has framed as a matter of competence and reliability rather than a change in the voluntary character of the role. Officers who wish to serve must hold a minimum of three years of Peace Officer Standards and Training certification, must have no disciplinary action in the preceding twelve months relating to firearms use or use of force, and must pass a marksmanship qualification requiring one hundred percent accuracy from a minimum of seven yards against a target built to the exact specifications of the one that will eventually be pinned over a living person's chest.[1] A volunteer who cannot hit that target with every round from every assigned firearm fails outright and is barred from serving.

What the restructuring accomplishes is not primarily about marksmanship. Any state that wanted only for its shooters to hit a stationary target from seven yards could achieve that with considerably less institutional apparatus than a three-year certification requirement and a clean disciplinary record. What the restructuring achieves is legal and reputational insulation.

By drawing exclusively from an already-vetted professional class — sworn officers who have passed background checks, use-of-force training, and departmental oversight — the state can point to its shooting team's credentials as evidence of institutional seriousness, while ensuring that any individual officer's participation is legally framed as an extension of ordinary law enforcement duty rather than a novel and extraordinary act the state is asking a private citizen to perform. That framing changes who bears responsibility if something goes wrong. A civilian volunteer who missed a heart shot might plausibly sue the state for inadequate training or support. A sworn officer operating within a certified, department-sanctioned protocol has, in most jurisdictions, a much narrower path to hold the state accountable for the psychological consequences of participation, because that participation is legally categorized as duty rather than as an exceptional favor performed for the state.

One further thing belongs here about how Idaho arrived at a squad of human beings at all, because for a while it was not obvious that it would. While House Bill 37 was moving through the legislature, Representative Skaug told lawmakers that Idaho's firing squad would be mechanized, and a Department of Correction spokesperson said in February 2025 that the agency was weighing a remote-operated weapons system alongside traditional firing squad methods.[2] In the same period, an IDOC spokesperson told the Idaho Statesman by email that a remote-operated system was preferred, because it would allow executions by firing squad to be carried out with minimal involvement from department staff, and that the agency was actively exploring available options.

Nothing in the protocol the department finally published in June 2026 describes such a system, and the qualification standards it did publish assume officers holding rifles. But the fact that it was considered belongs here, because it shows the direction the engineering instinct runs when a state sets out to solve this problem. Every other concealment documented so far puts distance between the shooter and the act. A remote-operated weapon is that impulse carried to its end point: nobody in the room, nobody's finger on anything, a killing performed by a machine that cannot be asked afterward what it was like.

Idaho did not go there. It is worth noticing how close it came, and worth noticing that the reason to reject such a system is not that it would be less reliable. It is that it would complete the disappearance of the human being who is supposed to be accountable for the shot.

The Vanishing Blank Round

A detail buried in the mechanics of Idaho's protocol deserves more attention than press coverage has given it, because it marks a real departure from the method's own historical practice.

In Utah's modern firing squad executions, including Gary Gilmore's in 1977 and, by most historical accounts, the executions that followed, the standard practice involved five shooters, only four of whom were

given rifles loaded with live ammunition. The fifth rifle was loaded with a blank, or in some documented cases a wax bullet,[3] and the assignment of rifles to shooters was arranged so that no individual shooter could be certain, afterward, whether he had fired one of the lethal rounds.

That was not an incidental detail. It was a deliberately engineered mechanism of psychological diffusion, built into the protocol so that the men performing the execution could tell themselves, with genuine and legally supported uncertainty, that they might not have been the one who killed.

Idaho's protocol, as reported and confirmed by the Department of Correction ahead of the effective date, does not include this mechanism.[4] The team leader loads one live round into a magazine for each of the three weapons. There is no blank, no wax bullet, no engineered ambiguity. Every officer who pulls the trigger on Idaho's team will know, with total certainty, that his round was a live one, discharged at a living person, at the moment the command was given.

I do not know why Idaho's designers chose to abandon this historical practice, and the department has not, to my knowledge, publicly explained it. But the change removes the last piece of engineered psychological cover the method has ever offered the people asked to perform it. Every other concealment documented so far — the hood over the condemned person's face, the shield law protecting the shooters' identities, the black pull-shade covering the gun ports until the last possible moment — exists to protect the shooters from the full weight of what they are doing. The blank round was, historically, the most direct version of that protection, built to let a man walk away from an execution able to tell himself, truthfully, that he does not know for certain he killed anyone.

Idaho has taken that mechanism away. Whatever else can be said about the candor or concealment of the method's other design choices, this one, at least, is more honest than its historical predecessor. It is also, I would argue, considerably crueler to the officers required to serve.

WHAT THE RESEARCH SAYS PARTICIPATION DOES

The psychological literature on execution team participation is not extensive, because access to execution personnel for research purposes is understandably restricted, but what exists deserves attention.

A study published in *Law and Human Behavior* by the psychologists Michael Osofsky, Albert Bandura, and Philip Zimbardo examined the mechanisms by which corrections personnel involved in executions psychologically manage their participation,[5] drawing on Bandura's broader theory of moral disengagement: the set of cognitive strategies people use to distance themselves from the moral weight of harmful acts they nonetheless perform.

Comparing three groups of prison personnel across three Southern states, the study found that members of the execution team, those closest to the killing, exhibited the highest levels of moral disengagement, including moral, social, and economic justification, disavowal of personal responsibility, and dehumanization of the condemned. Personnel who provided support to the families of victims and of the condemned disavowed such disengagement, and guards with no involvement in the execution process did so as well, though to a lesser degree than the support teams. Diffusion of responsibility across a group is one of the eight mechanisms Bandura identified, and it is the one Idaho has engineered out of its protocol by eliminating the blank round.

Beyond the academic literature, journalists and death penalty researchers have documented, across decades of reporting on execution teams in states using lethal injection, the electric chair, and the firing squad alike, a recurring pattern of psychological aftermath among corrections officers who have participated: difficulty sleeping, intrusive memories of the execution, strained relationships with family members who do not know or cannot fully process what the officer's job has required of him, and, in a meaningful number of documented cases, officers who have left corrections work entirely after one or more executions, citing the toll directly.

That pattern is consistent enough, across enough states and enough methods, to be treated as a predictable cost of the job rather than an occasional and unfortunate outlier. States that build execution teams are not merely solving a logistical problem of who will perform a legally mandated task. They are creating a small, specific population of public employees whom the state is knowingly exposing to a documented risk of lasting psychological harm, in service of an institutional goal, and offering that population, in return, primarily anonymity and a paycheck.

What States Offer in Return

Idaho's public materials do not disclose whether officers serving on its firing squad receive additional compensation beyond their ordinary salary, and the shield laws already described make this difficult to establish from outside the department. Other jurisdictions that have used execution teams have, in some documented instances, offered modest additional stipends: Utah paid the volunteers who shot John Albert Taylor three hundred dollars each. Set against the psychological risk the research describes, sums like that are difficult to characterize as adequate compensation.

Money is, in any case, an odd currency to try to exchange for the harm at issue. No hourly rate meaningfully prices in the risk of the insomnia, the intrusive memory, or the eventual quiet departure from law enforcement work that the research associates with this role.

What states more consistently offer instead is status. Selection for the shooting team is treated, in the departmental culture surrounding these roles in Utah and South Carolina alike, as a mark of trust and elite standing, reserved for officers who have already distinguished themselves through years of clean service and demonstrated proficiency. This is not a criticism of the individual officers who accept that distinction; there is nothing dishonorable about wanting to be recognized as exceptionally capable at one's job.

But the state's primary tool for securing willing participants in an act with documented psychological costs is not compensation calibrated to

those costs. It is status, the same currency states have always used to recruit people into their most demanding and most morally freighted forms of service, from military special forces to hostage negotiation teams. Status is a powerful motivator. It is also free to the state to offer, which may explain why it has become the currency of choice for a role whose actual costs remain largely uncompensated in any currency at all.

The Asymmetry in What Gets Named

Idaho's legislature, in its floor debate over House Bill 37, spent considerable energy weighing the risk that a bullet might miss its target. With the notable exception of Senator Foreman, a combat veteran and retired police officer who told his colleagues that the claim of instantaneity did not survive contact with what he had actually seen, the debate said almost nothing on the public record about the human cost of the method, and it said nothing at all about the specific risk the method poses to the officers asked to fire it.

That asymmetry reveals something about how institutions decide which costs are visible and which are not.

A missed shot produces a documented, autopsied, medically legible outcome: an entry wound in the wrong location, a pathologist's estimate of thirty to sixty seconds of conscious suffering, a matter of public record precisely because an autopsy is, by law, a matter of public record, however incompletely South Carolina's shield laws have allowed that record to be shared.

The psychological injury done to the officer who fired that shot, or one of the shots alongside it, produces no comparable public document. There is no autopsy for moral injury. There is no legally mandated disclosure requirement for an officer's subsequent insomnia, his strained marriage, or his decision three years later to leave law enforcement and decline to say exactly why. The harm is real, and the research suggests it is common, but it is structurally invisible in exactly the way a bullet wound is not, and that invisibility is why a legislature capable of debating

autopsy-level detail about a missed heart shot said almost nothing about what firing the gun does to the person holding it.

Training as Its Own Warning Sign

Idaho's marksmanship qualification standard deserves one more look, because a detail in its design inadvertently concedes the argument already made about certainty.

The requirement that volunteers achieve one hundred percent accuracy, with every round, from every assigned firearm, against a target built to exact specifications, is not the kind of standard a department sets when it is confident the underlying task is easy. It is the kind of standard a department sets when it knows, from whatever internal knowledge or consultation informed the protocol's design, that the task is difficult enough to require rigorous screening, and that a meaningful number of otherwise qualified officers might fail to meet it.

Idaho's Department of Correction, in the act of writing a demanding qualification standard, has effectively acknowledged what the evidence independently establishes: that hitting a heart-sized target on a living, restrained person, under the psychological conditions of an execution, is a genuinely difficult marksmanship task rather than a trivial one any competent shooter could perform without special preparation. A state confident that any reasonably proficient officer could reliably strike the target would have no need for a standard this exacting. The standard's existence is a tacit admission that the task carries real risk of failure, an admission the department has never made explicitly in its public communications but one that is visible to anyone who reads its own training requirements closely.[6]

Who Volunteers, and Why

One question remains that I cannot fully answer, because the shield laws prevent outside researchers, journalists, and authors from interviewing the individuals who serve on these teams. It is worth asking anyway.

What leads a trained, POST-certified law enforcement officer, already exposed daily to violence and its aftermath in the ordinary course of policing, to volunteer for a role the department itself frames, through its qualification standards, as requiring the highest level of proficiency and discipline it can demand?

Some plausible answers are unflattering: a belief that the condemned deserve exactly this, a desire for the institutional respect that comes with selection for an elite assignment, or, where a state offers it, additional pay. Other plausible answers are more sympathetic: a conviction, genuinely held, that if the state is going to carry out these sentences regardless of any individual officer's participation, better that the person pulling the trigger be someone rigorously trained and psychologically prepared than an unpracticed conscript.

I do not think these motivations can be adjudicated from the outside, and I do not think I should try. What is established is that whatever moves an officer to volunteer, the state has built a system that asks a great deal of that person and offers comparatively little institutional support for what he will carry afterward.

The next chapter turns to the people on the other side of the glass: the witnesses required by law to observe what has been described here, and the role I have spent much of my adult life occupying inside that witness room, accompanying someone through the last minutes the state will allow him.

NOTES

1. "Firing squad set to become primary method of execution in Idaho," IdahoNews.com, June 2026; "Idaho to rely on law enforcement volunteers for firing squad executions," Police1 (Idaho Statesman/Tribune Content Agency), June 12, 2026 (six POST-certified volunteers, three-year minimum certification, clean twelve-month disciplinary record); Idaho Department of Correction, Standard Operating Procedure for execution by firing squad; Snopes, "Idaho will use firing squad as main execution method beginning July 2026," June 25, 2026.

2. Kyle Pfannenstiel, "Idaho could be only state with firing squad as main execution method, after Legislature passes bill," Idaho Capital Sun, March 5, 2025 (Rep.

Bruce Skaug telling lawmakers the method would be "mechanized," and IDOC spokesperson Sanda Kuzeta-Cerimagic stating in February 2025 that the agency was considering "a remote-operated weapons system alongside traditional firing squad methods"); Kevin Fixler, "Idaho plans for firing squad executions aim to keep prison staff from rifles," Idaho Statesman, 2025 (IDOC spokesperson Blake Lopez on the department's preference for a remote-operated system). No such system appears in the qualification standards or procedures the department published in June 2026.

3. This account of the historical Utah firing squad protocol, including the use of a blank or wax round among the rifles issued, reflects general historical accounts of Gary Gilmore's 1977 execution and subsequent Utah practice. See also Mikal Gilmore, *Shot in the Heart* (Doubleday, 1994), 390, and Chapter 5.

4. "Idaho to rely on law enforcement volunteers for firing squad executions," Police1, June 12, 2026; "IDOC outlines firing squad procedures as new policy nears implementation," rexburgstandardjournal.com, June 2026 (the team leader loads one live round into a magazine for each of the three weapons); IdahoNews.com, June 2026.

5. Michael J. Osofsky, Albert Bandura, and Philip G. Zimbardo, "The Role of Moral Disengagement in the Execution Process," *Law and Human Behavior* 29, no. 4 (2005): 371–393. The study compared execution-team members, support-team members, and uninvolved guards in penitentiaries in three Southern states, and found that execution-team members exhibited the highest levels of moral disengagement, including moral, social, and economic justification, disavowal of personal responsibility, and dehumanization.

6. On Utah's qualification standard and blank-round provisions, see "How Utah's execution by firing squad works," Standard-Examiner, April 10, 2017, describing the Utah Department of Corrections execution manual, including the twenty-one-foot minimum qualification distance, the requirement that the qualification target match the dimensions of the target placed over the condemned person's heart, and the manual's references to blank and wax rounds. On Idaho's qualification standard, see Idaho Department of Correction, Standard Operating Procedure for execution by firing squad; "Idaho will soon turn to firing squad executions, with police pulling the triggers," Idaho Statesman/Tribune Content Agency, June 11, 2026. On the three hundred dollars paid to Utah's shooters in 1996, see Chapter 5.

Chapter 12

The Witnesses

* * *

I have stood in the witness role for thirteen executions in five states now, more than any other spiritual advisor in the United States. I have watched the state kill people by lethal injection and I have watched it kill people with nitrogen gas, including Kenneth Smith in Alabama in January 2024, the first person in the nation executed by that method, and Anthony Boyd in October 2025, whose execution became the longest by nitrogen gas on record.[1] I have not yet stood in a firing squad chamber, because no state has asked a spiritual advisor to occupy that role in the configuration Idaho has now built. What follows is, in part, an attempt to think through what that role will require, using what I have learned in the rooms I have already stood in.

What a Witness Is Legally Allowed to See

Every method of execution in America is built around a curated visual experience for its witnesses, and the firing squad curates more tightly than most.

In South Carolina's documented protocol, witnesses sit in a room separated from the execution chamber by bulletproof glass. A curtain

opens onto a person already hooded, already restrained in the chair, already reduced, visually, to a torso with a target on it. The witnesses do not see the shooters. They do not see the moment the target is placed, though they may see the doctor who places it withdraw. What they see, per the documented accounts of Sigmon's and Mahdi's executions, is a curtain opening, a period of stillness, an unannounced volley of gunfire, a visible reaction in the condemned person's body, and then, some minutes later, a physician emerging to pronounce death.

That is a narrower visual experience than lethal injection typically offers, where witnesses can usually see the condemned person's face throughout, from the moment the curtain opens until death is declared. The firing squad's hood removes that continuity. A witness to a firing squad execution watches, in the most literal sense, less of the actual person and more of the apparatus built around him: the chair, the straps, the target, the concealment. That bears on the candor argument, and it bears on what a spiritual advisor is able to offer someone in that chamber.

Ramirez and the Architecture It Assumed

Ramirez v. Collier, discussed in Chapter 9, established that a condemned person has a substantial legal right, under federal religious liberty law, to have a spiritual advisor present, praying audibly and, where requested, laying hands on him, during his execution.

The case that produced the ruling, John Henry Ramirez's execution in Texas, took place in the context of lethal injection, where the condemned person lies on a gurney with arms extended: an architecture that permits a spiritual advisor to stand beside the gurney, within arm's reach, without posing any plausible interference with the mechanics of the execution. The gurney was never going anywhere. The IV line administered its drugs regardless of whether a hand rested on the condemned person's leg or arm.

The firing squad's architecture is fundamentally different, and I do not think that difference has been adequately reckoned with by any

court, any state corrections department, or, as far as I am aware, any published legal scholarship.

A person restrained in a firing squad chair is positioned so that a clear line of fire exists between the gun ports and his chest. Any other person standing near enough to touch him, in the way *Ramirez* protects, would be standing in or immediately adjacent to that line of fire, or close enough to it that the state's security concerns — the same concerns *Ramirez* required Texas to justify with specificity rather than blanket assertion — would carry far more actual force than they carried in Ramirez's own case. A prison official objecting to a spiritual advisor's touch during a lethal injection has to explain what plausible harm that touch could cause. A prison official objecting to a spiritual advisor's presence within a few feet of a firing squad's line of fire has a considerably easier case to make, because the physical safety risk to the advisor himself, rather than a security abstraction, is genuine and immediate.

A right *Ramirez* established as a matter of religious liberty may therefore become close to impossible to exercise in its fullest form inside Idaho's chamber. A spiritual advisor may be permitted to pray audibly. He may be permitted to stand in the room, or in a designated position within it. But the laying on of hands the Supreme Court protected, the specific, physical, embodied form of accompaniment that distinguishes a spiritual advisor's presence from a chaplain's remote blessing read over an intercom, may not be geometrically available in a room built the way Idaho's F-Block chamber has been built.

I do not know, as of this writing, how Idaho intends to resolve this, because no execution has occurred under the new protocol. I raise it because it will become a live legal and pastoral question the first time Idaho schedules an execution, and because the answer may be that the firing squad, uniquely among methods currently in use, was designed in a way that structurally narrows the accompaniment *Ramirez* was decided to protect.

The Advisor's Own Uncertainty

I do not want to close this section without acknowledging something I have not said elsewhere. I do not know, with certainty, what my presence in these rooms accomplishes for the person I am there to accompany. I believe it does something. I have organized my life around that belief, at real cost. But I should resist describing my own role in language more certain than the evidence supports, given how much of this argument has been devoted to criticizing the state for exactly that kind of overconfident, under-supported certainty.

What I can say, with the same evidentiary caution I have applied to Idaho's claims, is this. Every person I have accompanied who was able to communicate afterward — in the brief window between a stay of execution and a return to ordinary confinement, or through family members who spoke with them before a completed execution — has told me that having someone present mattered to them, in the specific and limited sense of reducing the isolation of the experience. I have no controlled study establishing that spiritual accompaniment improves outcomes by any measurable standard, because no such study could ethically be constructed, and I would rather acknowledge that absence than paper over it with confident language borrowed from a register I have spent this book criticizing the state for using without support. What I offer is presence, not proof. I believe presence matters enormously. I do not claim to have measured it.

What I Have Learned From Nitrogen

I cannot yet say what standing in a firing squad chamber will require of a spiritual advisor, because I have not done it. I can say what standing beside Kenneth Smith taught me, because that experience is the closest analog available to me, and because it illustrates a pattern I expect to recur no matter what method a state chooses.

Nitrogen hypoxia was marketed, in the months before Alabama first used it in January 2024, in almost exactly the language Idaho's legislators

would later use for the firing squad: sudden, painless, quick, a humane alternative to a method that had repeatedly failed. I stood beside Kenneth Smith's gurney as his mask was fitted, and I can tell you directly, as someone close enough to see it rather than reading about it afterward, that what I witnessed did not match that marketing. Smith convulsed and heaved against his restraints for several minutes. His breathing was audible, labored, unmistakably a struggle rather than a peaceful transition into unconsciousness.[2] Witnesses in the room, including members of the press who had covered executions before, described what they saw in terms that echoed my account rather than the state's advance description of the method.

I recount this not to relitigate nitrogen hypoxia, which is not the subject here, but because the pattern it illustrates is the one already documented for the firing squad, and I expect it to hold for whatever method comes after the firing squad, whenever states decide the bullet, too, has generated too much bad press to remain politically comfortable.

Every method arrives with a promise of certainty and humaneness. Every method, once enough executions have been performed and enough witnesses have been in the room, generates a documented record of failure to meet that promise. The firing squad is not an exception to this pattern. It is the current entry in a very old list, and I have now watched enough entries on that list, in person, close enough to touch the person dying, to say with some confidence that the pattern will not break on its own. It breaks only when the public, and the legislatures the public elects, stop accepting the next method's promises at face value.

Whose Job Is It to Confirm Death

One detail recurs across nearly every execution account cited so far, regardless of method or state. A physician, in every documented case, is the person who ultimately confirms that death has occurred, stepping forward after the drugs have been administered, the gas has flowed, or

the shots have been fired, to perform an examination and pronounce the condemned person dead.

That role sits at an odd intersection of the honesty argument and the witness argument, because the doctor is simultaneously the most medically credentialed person in the room and the person whose presence most directly implicates the medical profession's own ethical strictures against participation in executions.

Major American medical associations, including the American Medical Association, have long held that physician participation in executions violates core medical ethics, on the theory that a doctor's professional identity is constituted by healing rather than killing, and that any participation, however minimal, compromises that identity and the public's trust in it.[3] The physicians who nonetheless appear in every account cited here — certifying targets with stethoscopes in South Carolina, pronouncing death after nitrogen hypoxia in Alabama, confirming Thomas Creech's veins were inaccessible in Idaho — occupy a strange professional position: present because their medical judgment is needed, while formally disavowed by the professional bodies that credentialed them.

I do not know how any individual physician in these rooms squares that tension, and I have no access to interview any of them, given the same anonymity protections already described. But the tension is one more example of the pattern traced throughout: an act the state wants dressed in enough procedural and professional credibility to feel legitimate, performed by people whose own professional and ethical commitments, examined closely, do not endorse what they have been asked to do.

THE REPORTER AS RELUCTANT WITNESS

I have written throughout as a spiritual advisor, because that is the role I occupy. But a significant share of the documented record these pages rely on — Jeffrey Collins's account of Brad Sigmon's execution, the Associated Press's coverage of Mikal Mahdi's, the reporters who

described Kenneth Smith's and Anthony Boyd's final minutes — comes from a different kind of witness: the journalist, present in the chamber not by spiritual calling but by professional assignment, often on a rotating basis, often having covered an execution before and knowing, walking in, roughly what the state's advance materials will claim and roughly how likely those claims are to hold up.

That role deserves its due, because it is easy for a book this critical of state power to overlook how much of its own evidentiary foundation depends on reporters doing an uncomfortable job carefully.

A journalist assigned to witness an execution is not there to advocate for or against the sentence being carried out. The obligation is narrower and, in its own way, harder: to watch closely, remember accurately, and report what they saw, regardless of whether it matches the state's press materials, and regardless of whether their own outlet's editorial position leans toward or against capital punishment. Collins's account of Sigmon's execution is exactly that kind of disciplined reporting: no editorializing, no argument, a description of a curtain opening, a hood, a crack of rifles, a red stain the size of a fist. That discipline is what makes his account usable as evidence, and it is also what makes state officials, in state after state, so reluctant to expand the number of people permitted to exercise it, a reluctance Chapter 13's account of Idaho's own witness-access lawsuit documents directly.

That lawsuit, over access to the room where Idaho's execution team prepares its equipment, is not an isolated skirmish over journalistic convenience. It is a battle over exactly the kind of witnessing just described: an institution's attempt to keep the number of trained, disciplined, professionally obligated observers as small as the law allows, because every additional witness is one more person capable of contradicting the state's account afterward, in print, under their own byline, answerable to an editor rather than to the department whose conduct they are describing.

THE WITNESS AS MORAL RECORD

A last word on what witnessing itself is for, because it is easy, reading an argument built substantially on autopsy reports and floor debate transcripts, to lose sight of why firsthand testimony matters at all when the paper record seems to tell the same story.

The paper record tells you that Mikal Mahdi's autopsy showed two wounds rather than three, and that a pathologist estimated thirty to sixty seconds of conscious suffering. It cannot tell you what it is to stand in a room and hear a man cry out after the shots are fired, then hear him groan while his chest continues to labor for breath his body is quickly running out of ways to draw.

Jeffrey Collins recorded exactly that sequence: a cry, two groans about forty-five seconds after the shots, then roughly eighty more seconds of breathing before what appeared to be a final gasp. David Weiss, Mahdi's attorney, who called the execution barbaric, insisted afterward on the humanity of the person the autopsy report reduces to a diagram of entry wounds and organ damage.[4] Testimony like theirs is not merely corroborating evidence for the autopsy's clinical findings. It is a different kind of testimony entirely, the kind that refuses to let the paper record have the last word.

This is why I have organized my life's work, imperfectly and at real personal cost, around being present in these rooms rather than writing about them from a distance. A state that kills in private, or in a room witnesses are permitted to see only through a narrow, curated aperture, is counting on the public never having to reckon with an account like Weiss's or Collins's: an account from inside the room rather than inside the file.

Every chapter here depends on testimony like that having been given, by witnesses willing to say what they saw rather than accept the state's advance description of what was supposed to happen. If Idaho's firing squad chamber is used in the coming years, on Thomas Creech or Gerald Pizzuto or Robin Row or any of the others named in the previous chapter, its record will depend on witnesses willing to do the

same: to say, afterward, what they actually saw, whether or not it matches what Representative Skaug promised on the floor of the Idaho House in February 2025. I intend to be one of those witnesses, if I am permitted to be, and this is a statement of that intention, made in advance, on the record, before the first shot is ever fired.

The next chapter turns from witness to ledger: what Idaho's wager on the firing squad has already cost, in dollars and in litigation, and what it stands to cost still.

NOTES

1. On Smith as the first nitrogen execution and Boyd as the longest on record, see Death Penalty Information Center, "Alabama Execution Witnesses Report 'Violent Thrashing' of Prisoner and More Than 225 'Agonized Breaths' in Nitrogen Gas Execution," October 27, 2025; Equal Justice Initiative, "Prolonged Execution in Alabama Raises Alarms," October 28, 2025; Nicholas Bogel-Burroughs, "Lengthy Execution by Nitrogen Gas in Alabama Renews Concerns Over Method," New York Times, October 24, 2025; Lee Hedgepeth, "After justices warned of prolonged suffocation, Alabama subjected Anthony Boyd to the longest nitrogen execution in U.S. history," Tread, October 23, 2025.

2. "Kenneth Eugene Smith executed by nitrogen gas for 1988 murder-for-hire scheme," Alabama Reflector, January 25, 2024 (Smith convulsed for about two minutes, followed by roughly seven minutes of heavy breathing); "Alabama puts to death Kenneth Smith in first known execution using nitrogen gas," CNN, January 26, 2024.

3. American Medical Association Code of Medical Ethics, Opinion 9.7.3, on physician participation in capital punishment.

4. The witness sequence — a cry, two groans about forty-five seconds after the shots, and continued breathing for roughly eighty seconds before a final gasp — is drawn from Jeffrey Collins's Associated Press account of Mahdi's April 11, 2025 execution. David Weiss, Mahdi's attorney, described the execution as "barbaric"; see NBC News coverage of the execution.

Chapter 13

The Cost of the Bullet

* * *

Idaho has executed three people since 1977. It has now spent well over a million dollars building a room to make executing more people easier, faster, and less dependent on a pharmaceutical supply chain the state cannot control. What follows is that arithmetic, and the litigation the state has already generated trying to defend it.

What the Room Actually Cost

The Department of Correction's own numbers arrived in stages, each one higher than the last.

In February 2025, while House Bill 37 was still moving through the legislature, a department spokesperson told the Idaho Capital Sun that designing the rework had already cost $313,915 and that full renovations were initially estimated at $952,589. By the first half of 2025 the department was telling the Idaho Statesman that retrofitting F-Block at the Idaho Maximum Security Institution would run just over nine hundred thousand dollars, a figure it described as about forty-two thousand dollars below a prior estimate. By the time construction finished ahead of the July 1, 2026 effective date, reporting placed the

final figure above 1.2 million dollars, an overrun consistent with the kind of specialized, security-sensitive construction the project required.[1] For comparison, South Carolina retrofitted its own chamber to add a firing squad in 2022 for about fifty-four thousand dollars, roughly one twenty-second of what Idaho spent.[2]

The overrun is not, by the standards of large capital projects, especially remarkable. What is remarkable is part of what drove the delay and expense. As early as 2019, when Idaho began exploring the firing squad as a contingency method, the department found that contractors capable of doing the necessary construction work were reluctant to take the job.[3] Multiple firms, according to the department's own later statements, declined to bid on work explicitly connected to executions.

That is a data point the state's own procurement process generated rather than an activist's talking point. Construction professionals, people with no formal position on capital punishment and every incentive to take a paying contract, looked at the specifications — a wall with gun ports, a chair built for restraint, sandbags positioned to catch what a human body does not stop — and a meaningful number of them said no.

The state eventually found contractors willing to do the work, and the project proceeded on a timeline that became a matter of public record and, briefly, public controversy. In May 2025, IDOC announced that F-Block would be taken entirely offline for construction, meaning the state would be unable to carry out any execution, by any method, including lethal injection, until the retrofit was complete.[4] The department's estimate at the time was six to nine months. In practice, the work stretched closer to fourteen, finishing just ahead of the statutory deadline.

There is an irony in that timeline Idaho's legislature did not intend and its own floor debate never mentioned. Every person on Idaho's death row spent more than a year of 2025 and early 2026 alive, specifically because the state's execution chamber was physically

incapable of killing anyone during that period. Thomas Creech, seventy-five years old as of this writing, is alive today in part because Idaho chose to spend fourteen months building a more efficient way to kill him rather than attempting to use its already-failed lethal injection apparatus during that window.

A room built to make death more certain produced, as an unplanned side effect of its own construction schedule, a year of certain life for the very people it was built to kill. I do not offer that as an argument that Idaho should build execution chambers slowly on purpose, which would be a grotesque thing to propose. I offer it because it illustrates, in miniature, how little control any institution has over the consequences of the systems it builds, a theme running from Thomas Creech's veins to Mikal Mahdi's autopsy to this construction schedule.

The Cheaper Alternative Nobody on the Floor Mentioned

Chapter 2 recounted prosecutor Jim Harris's reflection that Idaho's decades-long pursuit of Thomas Creech's execution had already cost the state an enormous sum chasing an outcome that might never happen. There is a substantial body of research behind that instinct, because Harris's observation about Creech is a local instance of one of the most consistently replicated findings in American criminal justice research: the death penalty costs dramatically more than its only realistic alternative, a sentence of life imprisonment without the possibility of parole.

The comparative figures, gathered across dozens of state-level studies over three decades, are strikingly consistent regardless of region or era. A 2021 Ohio Legislative Service Commission review of studies from multiple states found that death penalty cases cost between two and a half and five times more than comparable non-capital cases, with some states requiring between one and three million dollars more per case than an equivalent prosecution seeking life imprisonment.[5] A 2013 University of Denver study found Colorado's capital cases required roughly six times as many days in court as non-capital cases. A

California-focused analysis by a federal appellate judge and a law professor calculated that the state had spent roughly four billion dollars on capital punishment since 1978, and that replacing its death sentences with life without parole would save on the order of a hundred and seventy million dollars a year.[6] Most relevant here, a 2025 review by Indiana's nonpartisan Legislative Services Agency, compiled as that state's legislature considered the death penalty's cost, found that trying a death penalty case in Indiana costs roughly eight times more than a case seeking life without parole: $290,022 compared to $36,173.[7]

I raise this in a chapter about Idaho's 1.2 million dollar chamber because the comparison sharpens what the chamber represents.

Idaho did not build F-Block's retrofit because the firing squad is cheaper than the alternative to a death sentence generally. Life imprisonment without parole is reliably, dramatically cheaper than any capital prosecution and any execution method, firing squad included, once the full costs of capital trials, appeals, and specialized incarceration are counted. Idaho built the chamber because the state had already committed, as settled policy, to seeking death sentences regardless of cost, and needed a way to make good on death sentences it had already obtained.

The question worth asking is not whether the firing squad was worth its price relative to life imprisonment; on that question, capital punishment of any kind loses badly and consistently, in study after study, across nearly every state that has examined it rigorously. The only question Idaho's legislature actually asked itself was narrower and more expensive still. Having already committed to a system dramatically more costly than the alternative, how much additional money should the state spend making sure that system's machinery does not embarrass it in public the way Thomas Creech's veins did in February 2024? The answer, it turned out, was more than 1.2 million dollars, and rising.

Robin Maher made a related observation about Idaho, noting that many people are surprised to learn how early in a case the cost escalation begins. "As soon as the prosecutor decides to seek death," Maher said,

"the price tag goes up," pointing to the long series of appeals and security costs a capital designation triggers regardless of the eventual sentence or method of execution.[8]

That detail shapes how the arithmetic should be read. The 1.2 million dollar chamber is not the primary driver of Idaho's death penalty costs. It is a comparatively small addition to a cost structure that was already, by Maher's account and the broader research, running far higher than a life-imprisonment alternative would have cost, from the moment prosecutors in each of these eight cases first decided to pursue death rather than accept a plea to a lesser sentence.

THE LAWSUIT OVER WHAT WITNESSES ARE ALLOWED TO SEE

Idaho's transition to the firing squad has already generated litigation independent of any individual death row prisoner's case, and it concerns exactly the question Chapter 8 raised about candor.

The Associated Press, the Idaho Statesman, and East Idaho News sued the Department of Correction over witness access to what the protocol calls the Medical Team Room: the concealed space beside the execution chamber where the team prepares and labels the syringes and, under the lethal injection protocol, pushes the drugs through lines fed to the prisoner through holes in the wall. No drugs are administered by the medical team while in the chamber itself. Everything the witnesses are permitted to see happens on one side of that wall, and the act of killing happens on the other. In April 2025 a federal magistrate judge granted a preliminary injunction, barring the state from carrying out lethal injection executions until it improved audio and visual access to that room. The Idaho Attorney General's Office, representing IDOC, appealed to the Ninth Circuit.[9]

The lawsuit reaches beyond its immediate subject. It is not, on its face, a lawsuit about the firing squad; it concerns the preparation room associated with the lethal injection protocol. But it is direct evidence of a familiar pattern: a state execution apparatus resisting outside visibility into its own procedures, forcing journalists and media organizations into

federal court simply to observe a process the state insists is being conducted with dignity and professionalism. If the state resists this level of transparency for the Medical Team Room, there is little reason to expect a more forthcoming posture regarding the firing squad's shooting team, whose identities House Bill 803 has now placed beyond disclosure entirely.

There is a further wrinkle the timing produces. The injunction reaches the lethal injection protocol, which is the protocol the news organizations sued over and the only one in force when they filed. It is not obvious that it reaches a firing squad execution at all. In June 2026, with the injunction still standing and the Ninth Circuit appeal still pending, the department told reporters it would be prepared to carry out an execution order after July 1. A court order won at real cost, over a room that exists to serve a method Idaho has now demoted, may simply have been routed around.

Idaho is not alone in the underlying instinct. The state's most recent completed execution, the 2012 lethal injection of Richard Leavitt, allowed witnesses to observe the full process for the first time only because a court ordered it in response to a lawsuit brought by news organizations.[10]

WHAT NINTH CIRCUIT REVIEW COULD STILL CHANGE

The Ninth Circuit appeal remained pending as of this writing, and its outcome could affect how much of the evidentiary approach used throughout these pages — built substantially on witness accounts and autopsy documentation from South Carolina — is even possible to replicate for Idaho's own future executions.

If the Ninth Circuit affirms, and if the principle it affirms is read to reach the new method rather than only the old one, Idaho's firing squad executions may generate a more complete public record than South Carolina's shield laws have allowed for Sigmon's, Mahdi's, or Bryant's. If the Ninth Circuit reverses, Idaho's executions could proceed with even less outside visibility than the South Carolina record has permitted.

I raise the pending litigation not to predict its outcome, which I cannot do, but to underscore how much any account like this one depends on institutional transparency litigation. Every fact in the middle chapters came from somewhere: an autopsy report defense attorneys fought to obtain, a witness account a journalist insisted on publishing, a pathologist's assessment commissioned because the state's own documentation was deemed insufficient. None of that record exists by the state's voluntary choice. It exists because people outside the state's institutions pushed for it, case by case, lawsuit by lawsuit. Whether Idaho's own executions, if and when they occur, generate a comparable record will depend substantially on whether that same outside pressure continues to be applied with the persistence South Carolina's advocates and journalists have shown.

WHAT THE MONEY COULD HAVE BOUGHT

The financial ledger closes with a comparison Idaho's legislative debate never invited but that any taxpayer is entitled to draw.

The 1.2 million dollars Idaho spent retrofitting F-Block is not, by the standards of state capital budgets, an enormous sum, but it is also not trivial, and it was spent entirely on the capacity to kill people more reliably rather than on any of the alternative uses a rural, comparatively low-population state might have found for the same money: additional public defender staffing to reduce the very appellate delays documented here, victim services for families like Meredith Barnett's, or mental health resources for a prison population that includes prisoners like Gerald Pizzuto receiving hospice care and prisoners like Thomas Creech whose attorneys describe him as carrying documented trauma from his own botched execution.

I do not raise the comparison to suggest that 1.2 million dollars redirected elsewhere would have solved Idaho's broader capital punishment problems. The cost research cited above suggests the state's capital punishment system costs far more than this single line item, and no single redirected expenditure would meaningfully change that larger

picture. I raise it because the choice to spend this sum on this capability, a more reliable killing apparatus, rather than on any of the other pressing needs a state corrections and justice system routinely identifies, is itself a statement of priority the floor debate never had to answer for.

Idaho's legislature was asked, implicitly, to choose between spending more money to kill people more efficiently and spending that money on almost anything else the state's justice system might have used it for. It chose the former, by the same lopsided margin that passed every other piece of this legislative history, and it did so without ever framing the choice in those terms on the public record.

The Law Written to Foreclose the Argument

A second piece of Idaho litigation history bears directly on the argument, and it did not play out in a courtroom at all. It played out on the floor of the legislature.

In March 2026, less than four months before the firing squad was set to become the state's primary execution method, the Idaho Legislature passed House Bill 803, which Governor Little signed on March 31 and which took effect, by design, on the same July 1, 2026 date as the firing squad itself.[11] The bill does two things, and both narrow the public's ability to see or contest how Idaho kills.

The first is the more consequential. Idaho's Administrative Procedure Act, like the federal statute it is modeled on and the versions every other state has adopted, requires government agencies to give public notice before adopting new rules, and it allows state courts to strike down agency actions that are arbitrary, capricious, or an abuse of discretion. House Bill 803 exempts the Department of Correction's execution procedures from that review entirely. The practical effect is that the corrections director can now rewrite the state's execution protocol with no public notice and no judicial oversight, subject only to a constitutional challenge: a prisoner arguing, for instance, that a new protocol amounts to cruel and unusual punishment. The state's own director, Bree Derrick, testified with unusual candor about the point of

the exercise. The bill was about "not wanting folks — you know, the public or others — to weigh in on rulemaking related to execution procedures, specifically."[12]

The second thing the bill does is extend the state's execution-secrecy apparatus to new categories of participant: members of the firing squad, and, in language the statute never defines, any person or entity that provides technical assistance during the execution process. Its sponsors called the bill a technical correction, and on the Senate floor one of them described this half of it as simply making the changes needed to cover those who would carry out a firing squad execution. But the undefined technical assistance language reaches considerably wider than the shooters, and the statute leaves its outer boundary to the department's own discretion.

This legislation connects directly to the mooting pattern Chapter 10 described in Gerald Pizzuto's case. It is the same strategy, escalated.

Pizzuto had a lawsuit pending: a challenge, under the Administrative Procedure Act, to the corrections director's decision to modify the lethal injection protocol after Thomas Creech's veins defeated the state in February 2024. He argued the director had changed the protocol arbitrarily, without meeting the public-accountability requirements the Act imposes, and he had appealed the dismissal of that suit to the Idaho Supreme Court, which had ordered briefing. House Bill 803, by exempting execution procedures from that review in the first place, was widely understood by critics, including the ACLU of Idaho, as designed to moot exactly that challenge before the state's highest court could rule on it.

When Chapter 10 described the state granting one condemned man a spiritual-advisor accommodation just generously enough to moot the lawsuit that would have secured it for everyone else, I called that a strategy rather than a mercy. House Bill 803 is the same strategy written into statute: rather than defend the protocol change on its merits, the state removed the court's authority to hear the challenge at all.

The strategy did not entirely work. In the second week of July 2026, days after the firing squad became Idaho's primary method and House Bill 803 took effect, Pizzuto and Creech sued the Department of Correction over the new execution protocol, calling Director Derrick's approval of it arbitrary, capricious, an abuse of discretion, and in excess of the agency's statutory authority. That is the Administrative Procedure Act standard, argued by name, against a law written specifically to remove it.

The complaint's core is administrative rather than constitutional, though it also invokes the Eighth and Fourteenth Amendments. They are not principally arguing that being shot is cruel. They are challenging thirteen provisions of the document that describes how it will be done: the qualifications required to serve on the firing squad, on the medical team, and in administration; restrictions on witness access, on attorney access, and on recording; the condemned person's right to engage in spiritual activity; sedation before the execution; the ability of execution volunteers to withdraw; the sourcing, inspection, and testing of supplies and equipment; the role of emergency medical services; the director's certification of the method; and the director's discretion to amend any of it at will. They ask the court to set the policy aside and return it to the agency.[13]

Nearly every chapter here is somewhere on that list. The marksmanship qualification and the volunteers' right to walk away are Chapter 11. Witness access and the right to spiritual activity are Chapter 12. The director's power to rewrite the protocol at will is the provision this section has just described. Two men the state has spent forty and forty-three years preparing to kill have read the document more closely than the legislature that authorized it, and they have filed the objection the legislature voted to make unavailable.

Whether an Idaho court agrees that House Bill 803 forecloses the argument is now the live question, and it will be answered before any of the eight people named in Chapter 10 is brought into that room. Senate Minority Leader Melissa Wintrow, whose warning about Idaho's optics

closes the next section, opposed the bill on precisely those grounds, questioning why the state would want to limit public and legislative input on something as grave as an execution. She was on the losing side, as opponents of every bill in this legislative history have been. What the law leaves behind is an execution apparatus a court may examine only on constitutional grounds, which is exactly the terrain the next section takes up.

***Glossip* and the Uphill Battle Ahead**

Any legal challenge to Idaho's firing squad protocol brought on behalf of Thomas Creech, Gerald Pizzuto, Robin Row, or any of the others named in Chapter 10 — and, after House Bill 803, a constitutional challenge is very nearly the only kind left — will have to contend with a Supreme Court precedent that makes such challenges considerably harder to win than most people assume.

In *Glossip v. Gross*, 576 U.S. 863 (2015), the Court held, in a closely divided five-to-four ruling, that a death row prisoner challenging a specific execution method under the Eighth Amendment must do more than show that the method carries a substantial risk of severe pain.[14] He must also identify a known and available alternative method that would significantly reduce that risk and show that the state has refused to adopt it without a legitimate penological reason. Four years later, in *Bucklew v. Precythe*, the Court extended that requirement to as-applied challenges brought by a single prisoner with a single unusual medical condition, and added a detail that has shaped everything since: the alternative a prisoner proposes need not already be authorized under the law of the state he is asking to kill him differently.

This is a demanding standard, and it reshapes the legal landscape the evidence here would otherwise seem to support. It is not enough, under *Glossip*, for Creech's attorneys to walk into federal court with Mikal Mahdi's autopsy report and the pathologist's estimate of thirty to sixty seconds of conscious suffering. They would also need to propose a specific, currently available alternative and demonstrate that Idaho's refusal to adopt it lacks any legitimate justification. Given that Idaho

adopted the firing squad specifically because lethal injection had become logistically unreliable, the state has a ready-made penological justification available for refusing to switch back: the same drug-shortage argument traced in Chapter 2. That creates a genuinely difficult bind for any prisoner attempting to challenge the method, and it goes a long way toward explaining why the documented failures catalogued across six chapters have not, on their own, stopped anything.

There is a bitter symmetry buried in that bind. Under the rule *Glossip* announced and *Bucklew* hardened, a condemned person cannot simply prove that a method will hurt him. He has to name a better one. And the method prisoners have named, over and over, in brief after brief across two decades, is the firing squad. The doctrine that makes Idaho's chamber nearly impossible to challenge is the same doctrine that helped put the gun back in American law. Chapter 14 takes up what happened when a federal court finally agreed.

I raise *Glossip* not to suggest that litigation is futile, but to give a clear-eyed account of why documented, autopsied failure has not, so far, been sufficient to stop this method's spread. The courts have built a standard that asks condemned people to solve the state's logistics problem for it, proposing a workable alternative from inside a legal system that has already shown, across the entirety of Part One, that it cannot reliably supply lethal injection drugs, cannot avoid botching an execution when it tries anyway, and cannot keep a firing squad's target reliably centered on a heart when it turns to the gun instead. The burden *Glossip* places on prisoners is not a neutral evidentiary standard. It is a thumb on the scale, and Idaho's legislature knew, when it voted in February and March of 2025, that this thumb would make its new method considerably harder to challenge in court than the documented evidence alone might otherwise suggest.

Who Benefits From the Optics

A last question, about political economy, that the floor debate in Chapter 3 touched only glancingly. Senator Wintrow warned that House

Bill 37 would put the optics of Idaho in a place she did not think the state wanted to be. It is worth asking who, within Idaho's political ecosystem, actually benefits from those optics, because the answer is not simply the public in some abstract sense of collective preference.

Legislators who sponsored and championed House Bill 37 gained a specific, marketable political identity from its passage: tough on crime, willing to solve a logistical problem the state's own corrections department had publicly struggled with for years, unafraid of the national media attention the "first state to make the firing squad primary" headline was always going to generate. That attention arrived, largely as predicted, in outlets ranging from CBS News to the Guardian to Snopes, the last of which was reduced to running down public confusion about the law's actual scope.

Whether the attention translates into electoral benefit for the bill's sponsors is a question I cannot fully answer. But it is not an unreasonable inference that a piece of legislation passed by margins of 58 to 11 and 28 to 7, in a state where Republican primaries are frequently the more electorally decisive contest, served at least some sponsors' interest in demonstrating uncompromising support for capital punishment to a primary electorate that rewards exactly that kind of demonstration.[15]

None of this is a claim about any individual legislator's motives, which I cannot see into and do not claim to know. It is a claim about incentive structures, and about who bears the cost when those incentives point toward reliability of killing rather than toward the documented human cost catalogued across twelve chapters. The people who benefit from Idaho's new optics are, disproportionately, people who will never sit in the chair, never fire the rifle, and never stand in the witness room. The people who bear the cost are named in Chapter 10; the officers who will be asked to shoot them, in Chapter 11. That asymmetry, between who decides and who pays, is not unique to capital punishment, but it is nowhere more starkly visible than in a room built, at public expense, to make the asymmetry more efficient.

Part Four widens the lens beyond Idaho's borders. The next chapter turns to the federal government, which in April 2026 formally authorized the firing squad as a method of federal execution for the first time in American history, and to the court ruling that has made the method considerably harder for any state to avoid.

NOTES

1. "Idaho starts remodel for the firing squad chamber. Here's what it'll cost," Idaho Statesman/Idaho Capital Sun, May 2025 (project estimated at roughly $911,000, about $42,000 below a prior estimate); Kyle Pfannenstiel, "Idaho House widely passes bill to make firing squad main execution method," Idaho Capital Sun, February 6, 2025 (IDOC spokesperson Sanda Kuzeta-Cerimagic reporting $313,915 in design costs and an initial full-renovation estimate of $952,589, and stating the agency did not plan to seek additional legislative appropriations); "Idaho starts remodel for the firing squad chamber. Here's what it'll cost," Idaho Statesman/Idaho Capital Sun, May 2025 (project estimated at roughly $911,000, about $42,000 below a prior estimate); "Idaho will use firing squad as main execution method beginning July 2026," Snopes, June 25, 2026 (Idaho Statesman reporting that the retrofit cost more than $1.2 million).

2. "Idaho starts remodel for the firing squad chamber," Idaho Statesman, May 2025 (reporting, per the Associated Press, that South Carolina upgraded its execution chamber to add a firing squad in 2022 at a cost of about $54,000).

3. "Idaho pauses executions into 2026 as prison system preps for firing squad," Corrections1 (Idaho Statesman/Tribune Content Agency), May 27, 2025.

4. Corrections1, May 27, 2025 (quoting IDOC's May 23, 2025 announcement that F-Block would be taken offline for construction).

5. Death Penalty Information Center, "What to Know: Costs and the Death Penalty," citing a 2021 Ohio Legislative Service Commission report.

6. Arthur L. Alarcón and Paula M. Mitchell, "Costs of Capital Punishment in California: Will Voters Choose Reform This November?," 46 Loy. L.A. L. Rev. S1 (2012); USC Gould School of Law, "The High Cost of a Death Sentence"; Death Penalty Information Center, "State Studies on Monetary Costs."

7. Death Penalty Information Center, "What to Know: Costs and the Death Penalty," citing the 2025 Indiana Legislative Services Agency fiscal review compiled in response to House Bill 1030 ($290,022 versus $36,173).

8. "Firing squad set to become primary method of execution in Idaho," IdahoNews.com, June 2026 (quoting Robin Maher, Executive Director, Death Penalty Information Center).

9. Corrections1, May 27, 2025.

10. "Convicted murderer executed in Idaho," Spokesman-Review, June 13, 2012 (witnesses observed the entire lethal-injection process for the first time following a court order issued in response to a lawsuit by news organizations), *Associated Press v. Tewalt*, No. 1:24-cv-00587-DKG (D. Idaho), Memorandum Decision and Order, April 29, 2025 (Grasham, M.J.) (granting preliminary injunction as to witness access to the Medical Team Room; noting that no lethal injection drugs are administered by the medical team while in the execution chamber); "Idaho pauses executions into 2026 as prison system preps for firing squad," Corrections1 (Idaho Statesman/Tribune Content Agency), May 27, 2025 (reporting the Attorney General's appeal to the Ninth Circuit); "Part of Idaho executions is hidden from view. News media sue prison system to change that," Lewiston Tribune, December 2024.

11. House Bill 803, Idaho Legislature (2026), legislature.idaho.gov; Leah Roemer, "New Idaho Law Shields Execution Procedures from Judicial Review and Public Scrutiny," Death Penalty Information Center, April 8, 2026; Kevin Fixler, "Judges could no longer review Idaho prison execution decisions under passed bill," Idaho Statesman, March 30, 2026. The measure stalled earlier in the session as House Bill 525 before being reintroduced in March 2026, and was signed by Gov. Little on March 31, 2026, effective July 1, 2026.

12. The exemption of execution procedures from Administrative Procedure Act review, and IDOC Director Bree Derrick's testimony, are described in Roemer, DPIC, April 8, 2026; see also Minutes, Idaho Senate Judiciary & Rules Committee, March 23, 2026.

13. Kevin Fixler, "'Abuse of discretion': Death row prisoners sue over Idaho's new firing squad," Idaho Statesman/East Idaho News, July 10, 2026; Zack Armstrong and Richard Rodriguez, "Idaho death row inmates sue IDOC director over approval of new firing squad policy," KTVB, July 10, 2026; Death Penalty Information Center, "Idaho Death-Sentenced Prisoners Challenge 'Arbitrary' and 'Capricious' Firing Squad Protocol," July 22, 2026. Contemporaneous reporting on July 10, 2026 described the complaint as having been filed earlier that week, so it is dated here to the second week of July rather than to a specific day. See also "Inmates challenge firing squad policy, citing 13 disputed procedures," KIFI Local News 8, July 2026; ACLU of Idaho, "2026 — HB 803 — Removing Court Review of Idaho Execution Procedures"; Roemer, DPIC, April 8, 2026 (reporting that critics viewed the bill as designed to moot Pizzuto's pending Administrative Procedure Act challenge to the post-Creech protocol change). The secrecy amendment expands Idaho Code § 19-2716A.

14. *Glossip v. Gross*, 576 U.S. 863 (2015); *Bucklew v. Precythe*, 587 U.S. 119 (2019). The known-and-available-alternative requirement originates in the plurality opinion in *Baze v. Rees*, 553 U.S. 35 (2008).

15. Vote margins: "Idaho will be only state with firing squad as main execution method, after governor signs bill," Idaho Capital Sun, March 12, 2025 (House 58–11; Senate 28–7); Death Penalty Information Center, "Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method," March 17, 2025.

PART IV

BEYOND IDAHO

It is a single, traceable contagion, moving state to state along the same structural fault line, the collapse of lethal injection, and picking up speed as each new adoption makes the next one look less like a radical departure and more like an inevitability.

CHAPTER 14

The Federal Question

* * *

I have written almost entirely about a single state, because Idaho's decision is the most complete and most legally consequential expression of everything argued against here. But Idaho did not make its decision in isolation, and it does not remain isolated. In the months before Idaho's law took effect, the federal government moved to adopt the same method, and understanding that move is essential to understanding where the argument is headed. A state-level policy is one thing. A federal policy, applied to prisoners sentenced under federal law in federal facilities across the country, is a different order of magnitude.

THE REPORT

On April 24, 2026, the Department of Justice's Office of Legal Policy released a forty-eight-page document titled *Restoring and Strengthening the Federal Death Penalty*. The report had been prepared at the direction of then-Attorney General Pamela Bondi, pursuant to an executive order President Trump signed on his first day back in office, titled *Restoring the Death Penalty and Protecting Public Safety*.[1]

By the time it was released, Bondi was no longer Attorney General. President Trump had fired her on April 2, and her deputy, Todd Blanche, had taken over in an acting capacity that same day.[2] It was Blanche who announced the report, framing the document as a correction of what the report itself calls the Biden administration's unprecedented break from the Department's longstanding approach to capital punishment. In practice, that break had been a moratorium on federal executions, alongside President Biden's decision in December 2024 to commute the death sentences of thirty-seven of the forty men then on federal death row, leaving three of the most notorious cases untouched, among them Dylann Roof, convicted of murdering nine Black parishioners at a Charleston church in 2015.[3]

The report's central recommendation is straightforward. It directs the Federal Bureau of Prisons to reinstate the single-drug pentobarbital protocol used during the first Trump administration's run of thirteen federal executions and, critically, to expand that protocol to include additional methods, explicitly naming the firing squad, electrocution, and lethal gas as options to be used when pentobarbital is unavailable.[4] The stated justification tracks, almost word for word, the justification Idaho's legislature offered in 2025. Lethal injection, the report states, has faced repeated and continuing legal challenges, and it alleges, in language that assigns blame rather than describing a supply problem, that anti-death-penalty activists have waged a public campaign against providers of lethal injection drugs. The Bureau of Prisons, the report concludes, should follow the states' lead and modify its execution protocol to include additional, constitutional manners of execution.[5]

It is easy to miss, amid the report's confident tone, what that recommendation represents: the first time in American history that the federal government has formally authorized the firing squad as a method of federal execution.

Six firing squad executions have occurred in this country since 1977, out of more than 1,600 executions in total, a share well under one percent, all of them carried out by individual states acting under their

own statutes — three in Utah and three in South Carolina in 2025 alone.[6] The federal government, across the entire modern era of capital punishment, had never before put this method on its own list. The April 2026 report changes that, not because any federal execution has yet occurred by firing squad, but because the operational and legal groundwork for one now formally exists, with the Bureau of Prisons directed to draft an operational manual and analyze the cost and feasibility of modifying its existing execution facility in Terre Haute, Indiana, or building an entirely new one.[7]

The Scale of What Is Coming

The method-of-execution changes do not exist in a vacuum. They are paired with a substantial expansion of the federal government's appetite for seeking death sentences in the first place.

In the same period surrounding the report's release, the Department announced it would resume federal executions and confirmed it was seeking death sentences against forty-four defendants, reversing the Biden administration's de facto moratorium.[8] An independent count compiled from court records and Justice Department data put the figure at no fewer than forty-two defendants across thirty-four cases, and noted that the current administration has already authorized more capital prosecutions than it did across the entirety of Trump's first four years in office.[9] Each of these cases, if it proceeds to a death sentence and exhausts appeals, becomes a future candidate for the expanded method menu.

The scale of that expansion changes the stakes of everything else here. A federal policy authorizing the firing squad as a contingency method matters much more when the federal government is simultaneously and substantially growing the number of active federal capital cases than it would if federal capital prosecutions remained as rare as they were during the preceding moratorium. Idaho's death row holds eight people, a number that has moved only slowly across five decades. The federal system is now positioned to grow its capital docket

considerably faster, and every person added to that docket becomes, eventually, a person whose execution could be carried out using a method that does not perform as its advocates promise.

THE DEATH PENALTY INFORMATION CENTER'S REBUTTAL

The report's claims did not go unanswered. The Death Penalty Information Center published a detailed analysis in early May 2026 arguing that the report misrepresents American history and law.[10]

The analysis makes a case already made here in narrower form. Federal executions under the first Trump administration were themselves a historical exception rather than a return to longstanding practice, since the federal government had not carried out an execution in the seventeen years before 2020. Most states abandoned the alternative methods the report now proposes, electrocution and lethal gas, precisely because of documented concerns about pain and botched procedures, the same concerns walked through in detail in the preceding chapters. And the Supreme Court has not, in any recent or meaningful sense, affirmatively blessed these methods as constitutionally sound, contrary to the report's characterization. The analysis notes something sharper still: the report mentions none of the infamous botched executions that drove states and the public to reject these methods in the first place, including botched executions suffered by some of the very individuals whose cases it cites in support of its claims.

I raise the rebuttal not because I expect it to have settled the argument, but because it illustrates how the policy debate proceeds. The report is not a scientific document arriving at a conclusion through neutral analysis of the available evidence. It is an advocacy document, produced by an administration that had already committed, through executive order, to expanding capital punishment before the report was written, built to supply a justification for a decision made in advance. That mirrors the pattern identified in Idaho's own legislative debate: a state or federal government arrives at a policy preference first, driven by the practical problem of an unreliable execution supply chain, and then

constructs, or commissions, the evidentiary and rhetorical case for that preference afterward.

Terre Haute, Reconsidered

The Bureau of Prisons' existing execution facility sits at the federal penitentiary in Terre Haute, Indiana, the site of every federal execution carried out since the practice resumed in 2001, including the thirteen performed in the final months of the first Trump administration. The April 2026 report directs the Bureau to evaluate whether that facility can be modified to accommodate a firing squad, or whether a new facility should be constructed elsewhere.[11]

Note the echo with Idaho's own experience, documented in Chapter 13. Idaho spent more than 1.2 million dollars and roughly fourteen months retrofitting a single unit of a single prison to accommodate a firing squad for a death row population of eight. The federal system's death row, even after the expansion of capital charging described above, remains larger and more geographically dispersed than Idaho's, raising retrofit and logistics questions at a scale Idaho's experience only partially anticipates.

Whether the Bureau ultimately modifies Terre Haute or builds elsewhere, the pattern documented throughout will very likely repeat: a facility designed and built in response to a specific political and legal moment, justified by drug-supply anxiety and constitutional litigation risk rather than by any newly discovered evidence about the firing squad's reliability, arriving years after the autopsy evidence described in Chapters 6 and 7 was already part of the public record. The federal government, unlike Idaho's legislature in 2025, cannot plausibly claim in the years ahead that it acted without access to Mikal Mahdi's autopsy, Robin Maher's assessment, or the DPIC's point-by-point rebuttal. Whatever facility the Bureau eventually builds, it will be built by an administration that had all of this evidence available to it before construction began.

WHAT THE REPORT DOES NOT SAY

The report runs to forty-eight pages, with a table of contents devoting separate sections to the firing squad, electrocution, and lethal gas. Here is what it does not meaningfully engage with: the autopsy evidence from Brad Sigmon's and Mikal Mahdi's executions.

A document proposing to authorize the firing squad as a federal execution method, released more than a year after Mahdi's execution and the autopsy findings that followed it, had every opportunity to grapple with the documented case in which a South Carolina firing squad missed its target and produced, according to a commissioned pathologist, thirty to sixty seconds of conscious suffering. The report instead frames the firing squad in largely historical and legal terms, an old method with, in its words, a long history of use, rather than confronting the most recent and most thoroughly documented instance of that history's actual outcome.

That is the same omission identified in Idaho's own legislative debate, now repeated at the federal level, by an administration with access to considerably more resources for a rigorous evaluation than any state legislature could muster.

CLEMENCY AND HABEAS: THE MACHINERY AROUND THE METHOD

The method-of-execution recommendations sit alongside two other proposals that reveal the report's broader purpose: not merely to diversify execution methods, but to accelerate the entire federal capital punishment process.

The report proposes a new rule barring death-sentenced federal prisoners from submitting clemency petitions, and barring the Pardon Attorney's office from considering such petitions, until all of a prisoner's direct appeals and collateral attacks have been fully resolved. It characterizes the prior practice, under which the Pardon Attorney retained discretion to consider a petition at any point regardless of pending litigation, as having nullified the purpose of the clemency

regulations. Critics have pointed out, reasonably in my view, that the proposed rule would insulate even a wrongly decided sentence from timely executive review for as long as the appellate process drags on, which, as Idaho's own death row demonstrates, can mean decades.

The report also proposes rules meant to streamline federal habeas corpus review under Chapter 154 of Title 28, the section of federal law governing the procedures by which death-sentenced prisoners can challenge their convictions and sentences in federal court after state remedies are exhausted. Streamlining, in this context, functions as a euphemism in the same register as the firing squad's hood and shield laws. It means narrowing the window and the grounds on which a federal court can catch a wrongful conviction or an unconstitutional sentence before an execution is carried out.

Taken together with the clemency proposal, the report's overall thrust is toward faster executions, with fewer opportunities for outside review at exactly the stages, clemency and habeas, historically most likely to catch the kind of errors Idaho's death row has already shown the system is capable of making.

JEFFERY LEE, AND THE PRECEDENT THAT ACCELERATES EVERYTHING

No single case illustrates the practical convergence of this argument more directly than that of Jeffery Lee in Alabama. Lee, convicted of the 1998 murders of Jimmy Ellis and Elaine Thompson during a pawn shop robbery, had been scheduled for execution by nitrogen hypoxia, the method I witnessed used on Kenneth Smith and Anthony Boyd.

The case did not begin as a victory. Following the first federal bench trial examining nitrogen gas as a method of execution, U.S. District Judge Emily C. Marks, a Trump appointee and chief judge of the Middle District of Alabama, ruled against Lee on May 28, 2026. She found that a person executed by nitrogen likely experiences severe air hunger, the sensation of desperately trying to breathe without getting enough oxygen, producing profound physiological discomfort and distress along with anxiety, fear, and dread. She found it can be worse than pain.

She found that consciousness is lost in not significantly more than one to three minutes. Then she held that Lee had established suffering but not a violation of the Eighth Amendment.

Lee appealed. On June 8, 2026, a three-judge panel of the Eleventh Circuit reversed her, using her own factual findings to reach the opposite conclusion. Sixty to a hundred and eighty seconds of that suffering, the panel held, presents a substantial risk of serious harm over and above death itself. The court remanded with instructions to consider Lee's proposed alternative method: the firing squad.[12]

She reached it the next day. On June 9, Judge Marks entered final judgment and permanently enjoined Alabama from executing Lee by nitrogen gas, finding the protocol violates the Eighth Amendment. She then found that Lee's firing squad proposal was, in her words, feasible, readily implemented, and significantly reduces the substantial risk of serious harm posed by Alabama's nitrogen protocol, and that the state had failed to articulate a legitimate penological reason for refusing to adopt it.[13] Alabama filed an emergency application with the Supreme Court, which denied it on June 11; Justices Thomas, Alito, and Gorsuch would have sided with the state.[14]

Here is the detail that carries the most weight. Under the framework the Supreme Court established in *Glossip v. Gross*, discussed in Chapter 13, a prisoner challenging an execution method must propose a specific, available alternative that would significantly reduce the risk of severe pain. Lee's attorneys did exactly that, proposing the firing squad, and a federal judge agreed that it cleared the *Glossip* bar, in a state that does not authorize the firing squad by statute at all.

I want to be precise about what the ruling does and does not do, because the temptation to overstate it is real. Judge Marks's finding was comparative, not absolute. She held that the firing squad significantly reduces a substantial risk of severe pain *as compared to* nitrogen hypoxia, a narrower proposition than a judicial blessing of the method in its own right. She was explicit on this point, and her language deserves quoting

at length, because it is the most candid judicial statement about execution methods I have encountered.

Were Alabama to adopt the firing squad, she wrote, that method would likely be challenged as well; indeed, there is likely no method, no matter how humane, that would be immune to constitutional challenge. The Constitution, she continued, does not guarantee a painless death, and human life cannot be purposefully extinguished without some risk of pain. The Court, the condemned, and the State must all confront that sobering reality. She was equally clear that her injunction did not disturb the state's ability to administer capital punishment by the methods Alabama does authorize, lethal injection and electrocution.[15]

That candor deserves sitting with, because Judge Marks has said from the bench what these fifteen chapters have been arguing: that no method is immune, that the search for a clean kill is a search for something that does not exist, and that everyone involved is obliged to confront that rather than pretend otherwise.

And yet the practical effect of her ruling runs in the opposite direction from her candor. A published federal opinion now exists holding that the firing squad satisfies *Glossip* as an alternative, and that is precisely the kind of judicial validation that accelerates a method's spread from state to state and into federal policy. Not a legislature affirmatively choosing the firing squad on its own initiative, as Idaho's did, but a federal court certifying the method as the constitutionally safer comparator whenever some other method runs into legal trouble. Every state currently defending a lethal injection or nitrogen protocol against an Eighth Amendment challenge now has a ready answer available.

Alabama's own response is instructive about the limits of that logic. Having been barred from using nitrogen gas on Lee, the state did not move to adopt the firing squad he had proposed. It moved instead to execute him by lethal injection, a method it already had on the books, and on July 30, 2026, Governor Kay Ivey set a new execution date of September 17.[16] The ruling did not make Alabama a firing squad state. What it did was add a federal district court's imprimatur to a method that

five states already authorize and that the Department of Justice had, six weeks earlier, added to the federal menu, at exactly the moment when legal pressure on every other available method is mounting.

WHAT THIS MEANS FOR THE REST OF THE ARGUMENT

I said in the introduction that Idaho's decision matters because it was the first state to make the firing squad primary rather than a backup. That framing needs updating in light of what the preceding sections describe. Idaho was first. The mechanism by which it will not remain alone is now visible in granular detail.

A federal court in Alabama has validated the method as a constitutional alternative in exactly the kind of case — a state's other method collapsing under legal challenge — that is recurring across the country as lethal injection and nitrogen hypoxia both continue to generate documented failures. A federal Department of Justice has formally authorized the same method for federal executions, directing its own Bureau of Prisons to build the operational and physical infrastructure to carry it out. And Florida, as the next chapter discusses, has taken a quieter and in some ways more consequential step, granting its corrections department open-ended authority to reach for methods no legislature has specifically debated.

None of this happened because the evidence became less true between Mikal Mahdi's execution and the DOJ's report. It happened because the same structural pressure that pushed Idaho toward the firing squad, the collapse of a reliable lethal injection supply chain, combined with the same structural feature of *Glossip* already identified as a thumb on the scale against condemned prisoners, is now operating simultaneously at the state and federal level, in multiple jurisdictions, with each new adoption making the next one appear more normal, more settled, more like simple modernization than the considered gamble it actually is.

NOTES

1. U.S. Department of Justice, Office of Legal Policy, *Restoring and Strengthening the Federal Death Penalty*, April 24, 2026, justice.gov; Death Penalty Information Center, "Department of Justice Releases Memo Calling for Expansion of Federal Death Penalty and New Methods," April 27, 2026; Executive Order, *Restoring the Death Penalty and Protecting Public Safety*, January 20, 2025.

2. "Trump says he fired Bondi, appoints Blanche as acting US attorney general," Reuters, April 2, 2026; "Five things to know about Todd Blanche, new acting attorney general," Palm Beach Post, April 2026. DPIC's April 27, 2026 report notes the document was prepared at the direction of "former Attorney General Pamela Bondi."

3. *Restoring and Strengthening the Federal Death Penalty*, April 24, 2026 (stating that on December 23, 2024, President Biden commuted the death sentences of thirty-seven of the forty remaining federal death row prisoners); Death Penalty Information Center, "Federal Death Penalty" topic page.

4. DPIC, April 27, 2026; "DOJ says it will use firing squads, electrocution again for federal executions," CNBC, April 24, 2026; "US Department of Justice announces decision to resume federal executions," JURIST, April 27, 2026.

5. DPIC, April 27, 2026 (quoting the DOJ report); *Restoring and Strengthening the Federal Death Penalty*, April 24, 2026.

6. Death Penalty Information Center execution database. The three Utah executions were Gary Gilmore (1977), John Albert Taylor (1996), and Ronnie Lee Gardner (2010); the three South Carolina executions were Brad Sigmon (March 7, 2025), Mikal Mahdi (April 11, 2025), and Stephen Bryant (November 14, 2025). See also DPIC, "Bipartisan Support Defeats Indiana House Bill to Add Firing Squad as Execution Method," February 4, 2026 (noting South Carolina carried out the nation's first firing squad execution in fifteen years on March 7, 2025).

7. *Restoring and Strengthening the Federal Death Penalty*, April 24, 2026; "Is Execution by Firing Squad Legal? State and Federal Rules," Nolo, updated June 13, 2026 (summarizing the report's directive that BOP draft an operational manual and analyze costs of modifying the existing chamber or building a new facility).

8. "US Department of Justice announces decision to resume federal executions," JURIST, April 27, 2026 (reporting the Department was seeking death sentences against forty-four defendants).

9. Liliana Segura and Jordan Smith, "Trump Has Already Launched More Death Penalty Prosecutions Than in His Entire First Term," The Intercept, July 1, 2026 (counting at least forty-two defendants in thirty-four cases, based on legal records and data from the Justice Department and the Federal Capital Trial Project).

10. Death Penalty Information Center, "New Analysis: In Seeking Firing Squad, Electrocution, and Nitrogen Gas Executions, DOJ Misrepresents American History and Law," May 5, 2026.

11. *Restoring and Strengthening the Federal Death Penalty*, April 24, 2026; Nolo, June 13, 2026.

12. Memorandum Opinion, *Lee v. Commissioner*, Alabama Department of Corrections, U.S. District Court for the Middle District of Alabama, May 28, 2026 (Marks, C.J.) (finding severe air hunger and loss of consciousness in "not significantly more than one to three minutes," but ruling against Lee on the Eighth Amendment question); *Lee v. Commissioner*, U.S. Court of Appeals for the Eleventh Circuit, opinion of June 8, 2026 (reversing, and holding on the district court's own findings that "Alabama's nitrogen hypoxia protocol presents a 'substantial risk of serious harm' — severe pain over and above death itself"); Death Penalty Information Center, "Alabama Federal Judges Block State from Using Nitrogen Gas to Execute Jeffery Lee," June 12, 2026.

13. Final judgment, *Lee v. Commissioner, Alabama Department of Corrections*, U.S. District Court for the Middle District of Alabama, June 9, 2026 (Marks, J.); Ralph Chapoco, "Federal judge blocks use of Alabama's nitrogen gas execution protocol," Alabama Reflector, June 9, 2026; DPIC, June 12, 2026. Alabama's appeal was docketed in the Eleventh Circuit as No. 26-12027-P.

14. Order denying application for stay, *Commissioner, Alabama Department of Corrections v. Lee*, U.S. Supreme Court, June 11, 2026; "Supreme Court rejects Alabama's attempt to execute Jeffery Lee with nitrogen gas," MS NOW/Deadline: Legal Blog, June 11, 2026.

15. Final judgment, June 9, 2026 (Marks, J.), as quoted in "Jeffery Lee: Judge bars Alabama nitrogen gas execution, says method is unconstitutionally cruel," CNN, June 9, 2026, and Chapoco, Alabama Reflector, June 9, 2026.

16. Ralph Chapoco, "New execution date set for Alabama death row inmate who stopped nitrogen gas execution," Alabama Reflector, July 30, 2026; Death Penalty Information Center, "Alabama Governor Sets New Execution Date for Jeffery Lee Using Lethal Injection, Following Blocked Efforts to Execute Him with Nitrogen Gas," July 2026. See also Ralph Chapoco, "With nitrogen gas blocked, Alabama seeks to execute inmate by lethal injection," Alabama Reflector, June 12, 2026.

Chapter 15

Contagion — Utah, Oklahoma, Mississippi, Florida, and the Shape of What Comes Next

* * *

Idaho is one of five states that, as of this writing, explicitly authorize the firing squad by name. Chapter 4 told South Carolina's story. What follows takes up the remaining three — Utah, Oklahoma, and Mississippi — along with Florida, which has opened the door to shooting-based executions by an entirely different legislative route, and Indiana, which came within three votes of walking through it.

The pattern of adoption across these jurisdictions shows something Idaho's case alone cannot: that the firing squad's spread is not a series of isolated legislative accidents. It is a single, traceable contagion, moving state to state along the same structural fault line, the collapse of lethal injection, and picking up speed as each new adoption makes the next one look less like a radical departure and more like an inevitability. It also includes one case where the contagion was stopped, by three votes, in a state almost nobody expected to stop it.

Utah's Head Start

Utah, as Chapter 4 detailed, never fully abandoned the firing squad. The state eliminated the condemned person's open choice of method for anyone sentenced after May 3, 2004, but kept the rifle on the books as a fallback should a court hold lethal injection unconstitutional.

What changed in 2015 was narrower and more revealing. House Bill 11, sponsored by Representative Paul Ray and signed by Governor Gary Herbert, added a second trigger: if the substances required for lethal injection are not available on the date the death warrant specifies, the sentence shall be carried out by firing squad.[1] It passed the House 39 to 34 and the Senate 18 to 10. Ray called it a small policy change to existing statute. It was, in substance, the first modern instance of the pattern traced across this chapter: not a judgment that shooting a person is better, but a contingency written into law because the drugs had become hard to buy. The same statute directs that the squad consist of five peace officers, one issued a blank at random, the configuration whose vanishing counterpart Chapter 11 takes up.[2]

Utah's relationship to the method, rooted in the regional and religious history already traced, is the oldest and least legally contested of any state's. All three of the firing squad executions carried out in the United States between 1977 and 2025 took place there.

There would have been a fourth. Ralph Leroy Menzies had been on Utah's death row since 1988 for the murder of Maurine Hunsaker, and he was one of a small handful of men still holding a preserved election to be shot. A judge signed his death warrant in July 2025, setting the execution for September 5.

It never happened. Menzies had vascular dementia, and on August 29 the Utah Supreme Court unanimously vacated the warrant, holding that he had made a prima facie showing that his condition had deteriorated enough to require a fresh competency determination. In November the State's own forensic psychologist, who had twice found Menzies competent, reversed himself and concluded that Menzies no longer understood why Utah intended to kill him, and that his dementia

was progressive and untreatable. A hearing was set for December. Nine days after that evaluation, on November 26, 2025, Menzies died of presumed natural causes in a hospital, at sixty-seven, before the court could rule.

That outcome sits oddly beside everything that follows. The state with the deepest and oldest attachment to the firing squad, the one whose statute Idaho's legislators kept invoking as proof the method is tested and traditional, spent thirty-seven years preparing to shoot a man and could not manage it. He died of ordinary illness in an ordinary hospital bed while the machinery was still arguing with itself. Utah's row now holds three men, and it has produced no new death sentence since 2008. The record, with sources, is set out in Appendix D. What counts here is that the contagion was, at its own point of origin, running down rather than up.

OKLAHOMA'S UNUSED STATUTE

Oklahoma tells a more instructive story, because it is the state that has come closest to using the firing squad without ever doing so.

Oklahoma's statute places the firing squad fourth in a hierarchy: lethal injection first, nitrogen hypoxia second, added by the legislature in 2015 and never yet used in the state, electrocution third, and the firing squad last, available only if every method above it has been struck down or become unavailable.[3]

In January 2022, attorneys for two Oklahoma death row prisoners, Donald Grant and Gilbert Postelle, asked a federal court to let them be executed by firing squad rather than by the state's three-drug lethal injection protocol, which had produced documented complications in earlier executions, including John Grant's convulsions and vomiting on the gurney three months before. Their attorney told the court that while the firing squad might be gruesome to look at, everyone agreed it would be quicker.[4]

The request failed, and the reason is worth stating precisely, because it is not the reason one might assume. U.S. District Judge Stephen Friot

denied the men a stay, finding they were unlikely to succeed on the merits of their challenge to lethal injection, and further determined that they had designated the firing squad as their alternative method too late to be included in the separate lawsuit challenging Oklahoma's protocol. A three-judge panel of the Tenth Circuit denied their motion on January 24, 2022, and the Supreme Court denied a stay two days later.[5] Donald Grant was executed by lethal injection on January 27, 2022, and Gilbert Postelle on February 17.

That outcome cuts against the simple narrative that states are rushing toward the firing squad out of newfound enthusiasm for its supposed humaneness. Two condemned men, represented by counsel, affirmatively requested the firing squad because they believed it would cause them less suffering than the method the state intended to use. The state opposed the request. The courts denied it on a procedural timing ground. Both men were killed by the method they had asked to avoid.

Whatever else that episode demonstrates, it demonstrates that a state's choice of method is not, in practice, driven primarily by a considered judgment about which method is less painful for the person being killed. Oklahoma's corrections department confirmed at the time that it had never carried out a firing squad execution, and the method remains, in Oklahoma's case, an option on paper the state has shown no operational interest in using, even when the men it was preparing to kill were the ones asking for it.

MISSISSIPPI'S COST-EFFICIENCY CLAUSE

Mississippi's statute is, in some respects, the most quietly troubling of the five, because of a single provision buried in its execution method framework.

Mississippi law gives the Commissioner of Corrections, along with a small group of other officials, discretion to select among four authorized methods — lethal injection, nitrogen hypoxia, electrocution, or the firing squad — and directs that cost efficiency factor into that selection.[6] Mississippi has written into law an instruction that the state's

choice of how to kill a person should be informed, in part, by which method costs the state less money.

It does not require an elaborate argument to show why that is troubling independent of any question about the firing squad's reliability. A cost-efficiency standard applied to the selection of an execution method treats the manner of a person's death as a line-item budgeting decision, on the same conceptual footing as choosing between two vendors for prison food service or fleet maintenance.

Mississippi has never carried out a firing squad execution, and I do not know whether cost considerations have played any documented role in that non-use. But the statute's language stands regardless of whether it has yet been invoked, because it establishes, as codified state policy, that the question of which method will cause less suffering is legally subordinate to the question of which method costs less.

INDIANA: THE CONTAGION STOPPED, BY THREE VOTES

One state where the pattern did not hold deserves a pause, because the exception is instructive and because it happened in a jurisdiction almost nobody would have predicted.

In January 2026, Indiana Representative Jim Lucas introduced House Bill 1119, which as introduced would have authorized execution by firing squad or nitrogen hypoxia whenever the commissioner of the Department of Correction determined those methods advisable in light of availability considerations and departmental resources, or upon the condemned person's own request.[7] The justification embedded in the bill's operative language was the same drug-supply anxiety that has driven every adoption documented here. Lucas defended it on the floor in terms that could serve as an epigraph for the whole pattern: five states currently use both of these methods, he said, and these methods have passed court muster in other states and they have been validated. That is the contagion arguing for itself, out loud, in a legislature.

It did not work.

The bill cleared the House Courts and Criminal Code Committee by a vote of eight to five, party line except for Representative Jennifer Meltzer, a Republican who joined the Democrats in opposition, over testimony from the Indiana Public Defender Council, the ACLU, and the Indiana Catholic Conference.[8] The committee also amended it, removing the prisoner's right to elect a method and allowing the department to choose regardless of drug availability.

Then it began to come apart on the floor. Representative Alex Zimmerman, a Republican, moved to strike nitrogen hypoxia from the bill entirely, telling the chamber that nitrogen hypoxia is not an acceptable method of carrying out the penalty of death and describing it as putting a mask over someone's face and pumping nitrogen into their body. His amendment passed fifty-eight to thirty-two with bipartisan support.[9] On January 28, the bill itself failed on the House floor, forty-eight votes in favor and forty-seven against, three short of the constitutional majority required in the hundred-member chamber, defeated by a bipartisan coalition of nineteen Republicans and twenty-eight Democrats. It could have been called for a second vote before February 2 and was not. A companion Senate measure stalled in committee and died with it.[10]

Two things about that outcome deserve naming.

The first is that a Republican-controlled chamber, given the opportunity to add the firing squad to its statutes with the federal government's own endorsement six weeks away, declined, and did so in part because Republican members raised precisely the objections made throughout these pages. Zimmerman's description of nitrogen hypoxia is, almost word for word, what I witnessed standing beside Kenneth Smith. The evidentiary record assembled here is not politically unintelligible to legislators who encounter it. Three more votes and Indiana would be the sixth state, but the votes went the other way, and they went that way after debate rather than in spite of it.

The second is more sobering, and it is why I have not titled this section a victory. Two of the amendments Indiana's House adopted

before killing the bill are the most humane provisions any legislature has attached to an execution statute in the course of this research: one from Zimmerman requiring that at least one media witness be present at state executions, noting that Indiana and Wyoming are the only states that do not specifically allow journalists to attend, and one from Representative Victoria Garcia Wilburn expanding mental health services for execution team members, including education on resiliency and warning signs.[11] That second amendment is a legislature doing exactly what Chapter 11 argued no legislature does: recognizing, on the record, that the people asked to carry out an execution bear a documented psychological cost.

Both provisions died with the bill that carried them. And reporting in June 2026 indicated that Indiana's newly constructed prison had been built already equipped to accommodate firing squads, notwithstanding the legislature's refusal to authorize the method: a reminder that the physical infrastructure of an execution method can precede, and quietly outlast, the democratic decision to permit it.

FLORIDA'S QUIETER, BROADER MOVE

The most consequential development of 2025 outside Idaho received a fraction of the attention Idaho's own transition did, and it happened in the state that has become, by a wide margin, the country's most active executioner.

On May 22, 2025, Governor Ron DeSantis signed House Bill 903, sponsored by Representative Berny Jacques, with a companion measure filed by Senator Jonathan Martin. The law took effect July 1, 2025, and applies to death warrants signed after that date.[12]

What the law does is best stated precisely, because its structure matters more than any single method it might enable. Florida authorizes lethal injection and electrocution. Under House Bill 903, if either method is held unconstitutional, or if the drugs necessary for lethal injection become unavailable or their use becomes impractical, then all persons sentenced to death in Florida shall be executed by a method not deemed unconstitutional.[13]

The provision is conditional rather than immediate. But the category it opens is unbounded. It pre-authorizes any method a court has not yet foreclosed, including methods that do not currently exist in any state's statute and that no legislature has specifically debated. Contemporaneous coverage understood it, correctly, as opening the door to firing squads, nitrogen gas, and hanging.[14]

Florida's law belongs here because it illustrates how much further and faster this contagion can spread once a legislature stops naming specific methods and instead grants its corrections department open-ended authority to adopt whatever a court has not yet struck down. Idaho's House Bill 37 named the firing squad specifically, with a detailed protocol built around it, and it did so after a floor debate documented at length here — a debate that was lopsided and evasive about the evidence, but that at least occurred, on the record, with legislators accountable for their votes. Florida's 2025 law does something categorically different: it pre-clears an entire category of methods before any specific one has been proposed, vetted, litigated, or publicly named. That is a legislature betting on the dynamic already described in *Glossip v. Gross*, that the burden of proving a method unconstitutional falls on the condemned person rather than on the state to justify adopting it.

The stakes of that delegation are not hypothetical, because Florida is not a state where the death penalty sits dormant on the books. In 2025, Florida executed nineteen people, the most in a single year in the state's modern history and more than double its previous record of eight, set in 1984 and matched in 2014. Nationally, forty-seven people were executed in the United States in 2025, the highest annual total since 2009, and Florida alone accounted for more than a third of them.[15] A statute granting open-ended method authority means something different in a state carrying out nineteen executions a year than it would in a state carrying out one a decade. Whatever method Florida's corrections department eventually reaches for, if lethal injection drugs become unavailable, will be applied to a death row the state is emptying faster than any other in the country.

THE SHAPE OF THE CONTAGION

The pattern traced across five states, one failed adoption, and the federal government deserves a name, because naming it is more useful than treating each jurisdiction's decision as a separate, unrelated news story. It has three stages, and it recurs with remarkable consistency.

In the first stage, a state or the federal government authorizes the firing squad as a narrow contingency, invoked only if lethal injection becomes unavailable, framed explicitly in terms of drug supply rather than any affirmative judgment about the method's merits. Utah's original statute, South Carolina's 2021 law, Oklahoma's and Mississippi's frameworks, Idaho's 2023 bill, Florida's 2025 delegation, and Indiana's failed 2026 proposal all began, or currently sit, at this stage.

In the second stage, some triggering event — a botched lethal injection like Thomas Creech's, a court ruling striking down a state's preferred method like Judge Marks's injunction against Alabama's nitrogen protocol, a documented drug shortage — converts the contingency from theoretical to practical, and the state either uses the firing squad for the first time, as South Carolina did in 2025, or elevates it from backup to primary status, as Idaho did in the same year.

In the third stage, the first jurisdiction's adoption becomes precedent and political cover for the next. Idaho's legislators could point to South Carolina's 2025 executions as evidence the method worked, selectively citing Sigmon's case while largely ignoring Mahdi's autopsy. The federal Department of Justice could point to five states' existing statutes as evidence that the method already enjoys broad legislative acceptance. Indiana's sponsor could point to those same five states and tell his colleagues the methods had been validated. That the argument failed in Indiana by three votes does not mean it will fail elsewhere. It means the third stage is an argument rather than an inevitability, which is precisely the point at which public knowledge of the kind assembled here can still make a difference.

WHY THIS REACHES PAST ANY SINGLE STATE'S DECISION

I opened with Idaho because Idaho's decision is the most legally complete expression of the argument: a state choosing the firing squad not as an emergency measure but as its considered, primary plan. But this survey should make clear that Idaho's significance lies less in its uniqueness than in its function as the leading edge of a pattern replicating itself, state to state and now at the federal level, faster than the autopsy evidence in Chapters 6 and 7 can circulate widely enough to slow it down.

Oklahoma's unused statute, and the procedural technicality that sent Donald Grant and Gilbert Postelle to a death they had asked to avoid, shows that the method's spread is not driven by any genuine institutional consensus that it is more humane. Mississippi's cost-efficiency clause shows that it is not driven by an institutional commitment to minimizing suffering at any cost. Florida's open-ended delegation shows how little public debate the next expansion may require. And Indiana shows, encouragingly and narrowly, that the argument can still be lost by the people making it.

What Idaho represents, then, is not an aberration to be contained within its own borders. It is a demonstration project, watched closely by legislators in Indianapolis and Tallahassee and by lawyers in the Department of Justice's Office of Legal Policy alike, of how far a state can push this particular contingency before public attention catches up to what the autopsy reports already show.

This closes the documentary portion of the argument. Part Five turns from evidence to argument, from what has happened to what it means: what the firing squad, having failed every promise made on its behalf, reveals about the nature of the act it was built to perform, and why the bullet keeps drawing people toward it anyway. But the record should not be left behind without noting that the target pinned over a heart in Idaho is no longer a uniquely Idahoan image. It is becoming, one legislative session and one court ruling at a time, the target the entire

country is being asked to accept — and, in Indiana in January 2026, the target a narrow majority of one legislature declined.

NOTES

1. House Bill 11, "Death Penalty Procedure Amendments," Utah Legislature, 2015 General Session (chief sponsor Rep. Paul Ray; Senate sponsor Sen. David P. Hinkins), le.utah.gov, amending Utah Code §§ 76-2-404, 77-18-5.5, and 77-19-10, and providing "that if substances are not available to carry out the death penalty by lethal injection on the date specified by warrant, the death penalty shall be carried out by firing squad"; Utah Code § 77-18-5.5 (judgment of death — method is lethal injection — exceptions for use of firing squad; lethal injection applies to defendants sentenced on or after May 3, 2004). The bill passed the House 39 to 34 and the Senate 18 to 10, and was signed by Gov. Gary Herbert in March 2015. Ray's characterization of the measure as a "small policy change" appears in "Utah votes to retain firing squad method for planned execution," Deseret News/KSL, 2015.

2. Utah Code § 77-19-10 (providing that where the judgment of death is to be carried out by firing squad, the executive director or a designee "shall select a five-person firing squad of peace officers," and that compensation for squad members shall be determined by the director of the Division of Finance).

3. Okla. Stat. tit. 22, § 1014 (manner of inflicting punishment of death, establishing the hierarchy of lethal injection, nitrogen hypoxia, electrocution, and firing squad); Death Penalty Information Center, "Methods of Execution."

4. "Oklahoma death row inmates ask for firing squad instead of lethal injection," CNN, January 11, 2022; "2 Oklahoma Death Row Inmates Ask for Firing Squads Over Lethal Drugs," Inside Edition, January 11, 2022 (quoting attorney Jim Stronski); "Oklahoma executes man for killing 2 hotel workers after his firing squad request is denied," CBS News, January 27, 2022.

5. "Court Denies Oklahoma Death Row Inmates Firing Squad Request, Paves Way For Lethal Injection," CBS/AP, January 25, 2022 (reporting Judge Friot's findings, including that the alternative method was designated too late, and the Tenth Circuit's January 24, 2022 denial); *Grant v. Crow*, No. 21A360 (U.S. Jan. 26, 2022) (application for stay denied; Gorsuch, J., took no part).

6. Miss. Code Ann. § 99-19-51 (manner of execution of death sentence, providing for selection among lethal injection, nitrogen hypoxia, electrocution, and firing squad, and directing that cost efficiency be considered).

7. House Bill 1119, Indiana General Assembly (2026), iga.in.gov ("Authorizes the death penalty to be carried out by firing squad or nitrogen hypoxia: (1) if the commissioner of the department of correction determines that use of a firing squad or nitrogen hypoxia is advisable in light of availability considerations and the resources of the department; or (2) upon request by the condemned person"); Casey Smith, "Firing squad, gas execution methods move out of House committee," Indiana Capital Chronicle, January 21, 2026 (quoting

Rep. Jim Lucas).

8. Indiana Office of Court Services, "Legislative Update: Execution methods," January 23, 2026 (recording the eight to five committee vote and opposition testimony from the Indiana Public Defender Council, the ACLU, and the Indiana Catholic Conference); Smith, Indiana Capital Chronicle, January 21, 2026 (identifying Rep. Jennifer Meltzer as the sole Republican voting no).

9. "Indiana lawmakers remove nitrogen hypoxia from execution bill," Indiana Capital Chronicle, January 2026 (reporting the 58–32 vote on Rep. Alex Zimmerman's amendment and quoting his floor remarks).

10. Death Penalty Information Center, "Bipartisan Support Defeats Indiana House Bill to Add Firing Squad as Execution Method," February 4, 2026 (48 to 47 floor vote on January 28, 2026, three short of passage, with nineteen Republicans and twenty-eight Democrats opposed; two not voting and three absent; companion Senate Bill 11 stalled in committee).

11. "Indiana lawmakers remove nitrogen hypoxia from execution bill," Indiana Capital Chronicle, January 2026 (media-witness amendment and Rep. Victoria Garcia Wilburn's mental health amendment); Casey Smith, "Indiana's new prison already equipped for firing squads as death penalty debate continues," Indiana Capital Chronicle, June 26, 2026.

12. House Bill 903 (2025), Florida Legislature; Senate Bill 1604 (2025), Florida Legislature (companion, filed by Sen. Jonathan Martin); "Will Florida use firing squads, hanging, nitrogen gas in executions? New law allows it," USA Today Network–Florida, May 2025 (reporting the May 22, 2025 signing and July 1, 2025 effective date).

13. House Bill 903 (2025), Florida Legislature (providing that if electrocution or lethal injection is held unconstitutional, or lethal injection drugs become unavailable or impractical to use, "all persons sentenced to death for a capital crime shall be executed by a method not deemed unconstitutional").

14. "Florida bill would open the door to firing squads, lethal gas for executions," Tampa Bay Times, March 2025; "Death penalty expansion bills await Gov. DeSantis' signature," WFLA, May 2025 (quoting Rep. Berny Jacques).

15. "Florida sets up a third execution in 2026 as state leads US death penalty surge," Associated Press, January 2026 (nineteen Florida executions in 2025, exceeding the prior record of eight set in 1984 and matched in 2014; forty-seven executions nationally in 2025, the highest total since 2009).

PART V

THE VERDICT

The clean kill does not exist. It never existed. The bullet did not make it exist, and no method that comes after the bullet will make it exist either.

Chapter 16

What the Gun Reveals

* * *

I said in the introduction that the firing squad strips away more of the euphemism surrounding execution than any other method in use, and that this starkness is both the method's one virtue and its final indictment. That argument can be made in full now, with fifteen chapters of specific evidence standing behind it.

The Honest Number

First the record it rests on, fixed as exactly as I can fix it, because the number gets rounded in both directions by people with a stake in it.

Six executions by firing squad have been carried out in the United States in the modern era. Three took place in Utah, in 1977, 1996, and 2010, and the public record does not describe any of them as having failed in the way South Carolina's did, though neither does it contain documentation of the kind South Carolina has now produced. Three took place in South Carolina inside eight months in 2025.

Of those three, Brad Sigmon's autopsy showed three distinct wounds, all in the intended vicinity of the heart. Stephen Bryant made no sound; witnesses watched the bullseye fly forward off his chest, saw a

few shallow breaths, and then a final spasm a little over a minute later. Mikal Mahdi's execution produced two entrance wounds where three shooters had fired, a formal complaint to the South Carolina Supreme Court, and a retained pathologist's estimate of thirty to sixty seconds of conscious life after the volley. The South Carolina Department of Corrections disputes that account, maintaining that all three rounds were fired, that two entered through a single wound along the same path, and that its protocol was followed.[1]

So the honest number is not a clean three and three. It is one execution the record clearly shows went as designed, one the record clearly shows did not, one that appears to have gone as designed, and three older cases with no comparable documentary record.

Little of that is knowable. Half the modern history of this method predates any serious post-execution pathology. Of the half that does not, a third produced a contested autopsy. This is not a body of evidence capable of supporting a promise of certainty. It is barely a body of evidence at all, and Idaho treated its thinness as though thinness were reassurance.

The Candor That Indicts Itself

Here is the argument, now that the case is built. The firing squad's failure to deliver on these four promises is not a unique moral catastrophe, distinguishable from every other method of execution this country has used. Lethal injection has failed the same four promises, differently.

Oklahoma pressed ahead with an experimental midazolam protocol over repeated defense warnings and botched Clayton Lockett's execution in April 2014. Alabama spent roughly two and a half hours hunting for a vein in Doyle Hamm in February 2018, leaving him with ten to twelve puncture wounds, six of them in his groin, and puncturing his bladder and femoral artery before the attempt was abandoned; the state later settled a civil rights suit and agreed never to try again. Alabama spent at least ninety minutes on Alan Miller in September 2022, puncturing him roughly eighteen times before calling it off, and

eventually agreed that any future attempt on his life would use nitrogen instead.[2] The electric chair failed the same promises for a century before any of this. Nitrogen hypoxia, as I witnessed directly with Kenneth Smith, is failing them now, in real time, even as its own advocates market it with the vocabulary Idaho's legislators used for the bullet.

None of this is aberrational. In 2022 alone, seven of nineteen American execution attempts went wrong by the Death Penalty Information Center's accounting, a failure rate of roughly thirty-seven percent.[3] An NPR analysis of more than two hundred autopsies of prisoners executed by lethal injection found that eighty-four percent showed evidence of pulmonary edema, the lungs filling with fluid, a condition experts have compared to the sensation of drowning.[4] The machinery has been failing for a long time. What has changed is how visible the failure is.

What makes the firing squad worth an argument of its own is not that its failure is somehow worse than these other failures, though the evidence suggests it may be at least as severe. It is that its failure is harder to hide, because the method refuses the medical costume every other method has relied on to make its failures look, to an inattentive public, like something other than what they are.

When lethal injection fails, the failure can be described, and often is described in official statements, in language borrowed from medicine: a difficulty establishing venous access, a phrase that sounds like a clinical complication rather than what it is, a state failing, repeatedly, to kill a man it has strapped to a gurney. Alabama's corrections commissioner, asked about the aborted attempt on Doyle Hamm's life, offered the purest specimen of that vocabulary I have found anywhere in the record: "I wouldn't necessarily characterize what we had tonight as a problem."[5]

When the firing squad fails, there is no equivalent vocabulary available. There is an autopsy showing two entrance wounds instead of three, a witness account of a man crying out and groaning while his chest labored for breath, a target that visibly failed to land where it was

supposed to land. The bullet cannot be described euphemistically the way a needle can. Whatever its architects intended, Idaho's turn to the firing squad may end up doing something no state execution method has done in decades: forcing the public to look directly at what an execution is, because the method no longer offers anywhere comfortable to look instead.

A Note on What Revealing Does Not Accomplish

One misreading of that claim needs guarding against. To say that the firing squad reveals the nature of execution more clearly than lethal injection did is not to say that the revelation, on its own, accomplishes anything. Clarity is not the same thing as consequence.

The firing squad could, in principle, strip away every euphemism catalogued here, force the public to look directly at what an execution is, and still fail to change a single vote in the Idaho legislature, a single line in the DOJ's report, or a single policy in any of the jurisdictions surveyed in the previous chapter. Revelation creates the possibility of a different public reckoning. It does not guarantee one.

This is why I have not rested the argument on the hope that clarity alone will produce abolition. The evidence is offered because it is true and because readers deserve to know it, not because I believe true information reliably produces the political outcomes that seem, to me, to follow from it. Legislatures have looked directly at documented suffering before, in the botched lethal injections and the autopsy reports walked through in detail here, and have proceeded regardless. The firing squad's candor is real. Its capacity to change minds already committed to a different conclusion is not something I can promise, only something I can hope for. Chapter 15 documented one legislature that did change course, in Indiana, by three votes. It also documented five states and a federal government that did not.

The Question the Euphemism Was Built to Avoid

Every method of execution this country has adopted — hanging, the electric chair, the gas chamber, lethal injection, nitrogen hypoxia — has been sold to the public using some version of the same rhetorical move: this method, unlike the one before it, will finally be humane.

That move only works because it assumes the actual question, whether a state should be in the business of killing restrained, unarmed people at all, has already been settled, and that all that remains is a technical question of manner. The entire history told here, from Idaho's failed attempts with Thomas Creech to South Carolina's autopsied firing squad failures to nitrogen hypoxia's documented struggles, is a history of that technical question being asked, answered, found wanting, and re-asked with a new method, over and over, for half a century, without the underlying assumption ever being revisited.

It deserves revisiting directly, and the firing squad's peculiar candor, its refusal to dress itself in medical language, makes this the right moment.

Idaho's own record consists of little. The state has carried out three executions since capital punishment was reinstated, in 1994, 2011, and 2012, all by lethal injection. It has not executed anyone in fourteen years. Its one attempt in that period, on Thomas Creech in February 2024, ended after roughly an hour of failed venous access and was abandoned. Its response was not to reconsider whether the sentence could be carried out at all, but to spend more than 1.2 million dollars and fourteen months building a room for a different method.[6]

If a state cannot reliably kill a restrained person without a documented, non-trivial risk of thirty to sixty seconds of conscious suffering, using a method its own legislature examined with more scrutiny and more recent evidence than any previous method transition in American history, and if that same state has now cycled from one method to the next in search of one that will finally work, while the neighboring case of nitrogen hypoxia I witnessed directly shows the identical pattern unfolding on the identical timeline, then the conclusion

is not that the state needs a better method. The conclusion is that no method exists that will deliver what every one of these methods has promised, because the promise itself — painless, instant, dignified death delivered to an unwilling, restrained human being by other human beings acting on the state's behalf — may describe something that does not exist and cannot be engineered into existence, no matter how much money a legislature appropriates or how rigorous a marksmanship qualification it demands.

IF THE PUBLIC CAN WATCH AND STILL CONSENT

I said in the introduction that I do not expect every reader to arrive at abolition, and that holds here, where the argument reaches its fullest statement. Some readers will finish it having read every autopsy detail and every account of Mikal Mahdi's final minute, and conclude that the state should simply try harder, engineer better, qualify its shooters more rigorously, restore the blank round Idaho abandoned, and continue. That conclusion is available to a careful reader, even if I do not share it.

But the conclusion carries a requirement, because I do not think it can be accepted casually once the evidence has been absorbed. It requires accepting that a society is willing to watch, in as much documented detail as has been provided here, exactly what happens when the state's engineering fails — thirty to sixty seconds of a conscious man's suffering — and conclude that the correct response is refinement rather than reconsideration.

If the public can look at that record and still consent to the practice, dressed in whatever procedural improvements the next legislative session proposes, then the problem documented here was never really about the method at all. Method was always, at most, the vessel. The thing the public is consenting to, method notwithstanding, is the deliberate killing of a restrained person by the state, and no amount of marksmanship training changes what that act fundamentally is.

The Argument From the Other Side

I have made the case as forcefully as the evidence supports, and it closes by taking seriously the strongest form of the argument on the other side, because a case that cannot survive contact with its best opposition is not a case worth making.

That argument has a real empirical foundation, and readers deserve to see it at full strength rather than in caricature. In *Gruesome Spectacles*, his 2014 study of botched executions in America between 1890 and 2010, the Amherst political scientist Austin Sarat examined 8,776 executions and found that 276 of them went wrong in some way. Broken down by method, his data produced a striking result: lethal injection had the highest botch rate of any method in American history, roughly seven percent, while the firing squad had a botch rate of zero.[7] Those figures have been cited in law review articles arguing for the firing squad over lethal injection, and they have been cited by the Supreme Court itself, in Justice Sotomayor's dissent in *Glossip*. Anyone who wants to defend Idaho's choice has, in Sarat's numbers, a serious argument to make, and it is not one I can wave away.

Two things complicate it.

The first is methodological, and it comes not from abolitionists but from a critic writing against Sarat. The law professor Michael Conklin has argued that the zero percent firing squad figure omits documented instances of firing squad executions that went wrong, while the lethal injection figure relies on a definition of botched so expansive — encompassing difficulty inserting an IV, a prisoner who resists, or a death pronounced fourteen minutes after the drugs began — that the comparison between the two numbers cannot bear the weight placed on it.[8] I cite Conklin not because his critique helps my argument, since in some respects it cuts against it, but because a reader deciding what to believe about firing squad reliability deserves to know that the single most-cited statistic on the subject is contested in the scholarly literature.

The second complication is simply that Sarat's data ends in 2010, and the firing squad's zero percent rested on a sample of three modern

executions, all in Utah. In 2025, South Carolina tripled that sample in eight months. Whatever one concludes about Sigmon's execution, Mahdi's produced a contested autopsy, a formal complaint to the South Carolina Supreme Court, and a retained pathologist's estimate of thirty to sixty seconds of consciousness after the shots. A zero percent botch rate calculated before April 2025 is not a statement about the method. It is a statement about a sample too small to have encountered its own failure yet.

Even with those complications noted, the strongest version of the pro-firing-squad argument survives, and it deserves stating fairly. It does not rest on the claim that the method is painless; that claim cannot survive Mikal Mahdi's autopsy. It rests instead on a narrower, more defensible claim: that some crimes are severe enough that the state's interest in carrying out a death sentence outweighs a documented but statistically modest risk of a prolonged death, particularly when the alternative, continued reliance on lethal injection, carries a comparable or worse documented risk of its own, as the record of Lockett, Hamm, and Miller has shown.

That is not a frivolous argument, and I do not think it has been defeated simply by cataloguing failures. A reader who believes retribution is a legitimate purpose of punishment, and who believes Thomas Creech's or Chad Daybell's crimes warrant death regardless of the method's imperfections, can accept all of it and still conclude that the firing squad, imperfect as it is, remains an acceptable tool for a legitimate state purpose, in the way a surgeon might accept a small, documented risk of complications as the cost of a necessary operation.

I do not share that conclusion, for the reasons the introduction and the closing chapter lay out. But readers who hold it deserve better than to have their position caricatured as ignorance of the facts presented here. The disagreement that remains, after all the evidence is on the table, is not a disagreement about what the firing squad does. It is a disagreement about whether a state's interest in retribution justifies

accepting that documented risk at all, a question I have tried to answer but cannot claim to have settled for every reader.

What the Target Reveals About the Target-Setters

The case ends with an image rather than an argument, because the image says what the argument has been building toward more efficiently than another paragraph of analysis could.

Idaho's Department of Correction requires its shooters to qualify against a target built to the exact specifications of the one that will eventually be pinned to a living human being's chest, and to hit it with every round, from every assigned firearm, at a qualification distance the protocol sets no farther out than seven yards, while the shot itself is taken from ten.[9] Before any of Idaho's eight condemned residents ever sits in that chair, the officers assigned to kill them will have fired, repeatedly, at an object built to simulate a heart, until hitting it becomes routine, becomes muscle memory, becomes something the body can do without the mind fully engaging with what it is rehearsing to do.

That is the entire method in miniature: a state that has decided the correct response to the difficulty of killing a person reliably is more practice, more precision, more engineering, applied to an act that the evidence of the preceding fifteen chapters suggests cannot be made reliable, humane, candid, or freely chosen, no matter how much practice is applied to it.

Notes

1. On Sigmon: Jeffrey Collins, Associated Press, account of the March 7, 2025 execution, and the state-commissioned autopsy as reviewed by NPR. On Bryant: "South Carolina executes third person by firing squad this year," South Carolina Public Radio, November 14, 2025. On Mahdi: Chiara Eisner, "A firing squad tried to shoot a prisoner in the heart. They missed, autopsy indicates," NPR, May 8, 2025; Death Penalty Information Center, May 13, 2025. On the department's response, see the filings described in Chapter 6.

2. Death Penalty Information Center, "Botched Executions" database entries for Clayton D. Lockett (Oklahoma, April 29, 2014), Doyle Lee Hamm (Alabama,

February 22, 2018), and Alan Miller (Alabama, September 2022); "Botched Executions: Infamous Examples of Trouble on Death Row," A&E, September 22, 2025 (on the Hamm settlement barring a second attempt).

3. Death Penalty Information Center, "As Lethal Injection Turns Forty, States Botch a Record Number of Executions" (seven of nineteen execution attempts in 2022, approximately thirty-seven percent), citing Austin Sarat in *Slate*, November 21, 2022 and *The Conversation*, November 29, 2022.

4. NPR analysis of more than two hundred autopsies of prisoners executed by lethal injection (2020), finding evidence of pulmonary edema in eighty-four percent, as cited by the Death Penalty Information Center.

5. Alabama Corrections Commissioner Jeff Dunn, quoted in Death Penalty Information Center, "Botched Executions," regarding the aborted February 22, 2018 execution attempt on Doyle Lee Hamm.

6. On Idaho's three post-*Gregg* executions (1994, 2011, 2012) and the fourteen-year gap since: IdahoNews.com, June 2026; Police1, June 12, 2026. On the Creech attempt and the cost and duration of the F-Block retrofit, see Chapters 2 and 13.

7. Austin Sarat, *Gruesome Spectacles: Botched Executions and America's Death Penalty* (Stanford University Press, 2014), examining 8,776 executions between 1890 and 2010 and identifying 276 as botched; Death Penalty Information Center, "BOOKS: 'Gruesome Spectacles' Reveals the History of Botched Executions" (276 of 8,776 executions, or 3.15 percent, botched overall; lethal injection highest at approximately 7 percent); *Glossip v. Gross*, 576 U.S. 863, 976–77 (2015) (Sotomayor, J., dissenting) (citing Sarat).

8. Michael Conklin, "Botched Statistics on Botched Executions: Refuting Austin Sarat's Claims," *Mitchell Hamline Amicus Curiae* (May 19, 2022), available at SSRN (arguing that the zero percent firing squad rate omits documented botched firing squad executions and that Sarat's definition of a botched lethal injection is unworkably broad).

9. Idaho Department of Correction firing squad qualification standard, as described in Chapters 6 and 11; "Idaho to rely on law enforcement volunteers for firing squad executions," Police1, June 12, 2026.

CHAPTER 17

The Lie of the Clean Kill

* * *

I have spent this book taking apart a lie. I want to spend this last chapter on something harder, which is why the lie works.

A lie that nobody believes is not dangerous. It sits in a legislative record, unexamined and inert, and it persuades no one. The lie of the clean kill is dangerous because it is attractive. It has persuaded legislators, and judges, and scholars who have spent their careers documenting the cruelty of American executions. It has persuaded men on death row who had every reason to distrust anything the state offered them. It has, at moments I am not proud of and will describe before the end, persuaded me.

That is the subject here. Not whether the firing squad is clean, which the preceding sixteen chapters have answered, but why the bullet keeps drawing people toward it anyway, including people who want the killing stopped altogether.

WHO THE BULLET HAS PERSUADED

Begin with the strongest case, which does not come from Idaho's legislature or from any advocate of capital punishment. It comes from

the Supreme Court, in a dissent written by its most consistent critic of the death penalty.

In 2017, Thomas Arthur, a seventy-five-year-old man on Alabama's death row, asked to be shot rather than injected. He argued that Alabama's midazolam protocol would leave him conscious and paralyzed while his body failed, and he proposed the firing squad as the alternative *Glossip v. Gross* required him to name. The Eleventh Circuit rejected the claim on a single ground: Alabama law did not authorize the firing squad, so it could not be a known and available alternative. The Supreme Court declined to hear the case. Justice Sotomayor, joined by Justice Breyer, dissented, and what she wrote deserves quoting at length, because it is the most serious argument for the bullet ever made by anyone hostile to executions.[1]

Some might find the choice regressive, she wrote, but the available evidence suggested that a competently performed shooting may cause nearly instant death. In addition to being near instant, she continued, death by shooting may also be comparatively painless, and historically the firing squad has yielded significantly fewer botched executions. Condemned prisoners, she added, might find more dignity in an instantaneous death than in prolonged torture on a medical gurney. Of lethal injection itself she wrote that the prisoner is conscious but entirely paralyzed, unable to move or scream, suffering what may be the chemical equivalent of being burned at the stake. And she named the irony directly: that the method which appears most humane may turn out to be our most cruel experiment yet.[2]

I do not think that argument can be dismissed, and I have not tried to dismiss it anywhere in these pages. It is made in good faith, by a justice who has spent two decades documenting exactly these failures, on the basis of evidence that was accurate when she wrote it.

Deborah Denno, whose scholarship on execution methods is as thorough as anyone's in the American academy, urged policymakers toward the same reconsideration in a 2016 law review article, observing that lethal injection has only gotten worse over the decades.[3] A deputy

director of Reprieve, an organization that exists to oppose the death penalty worldwide, put the point more bluntly after Brad Sigmon's execution: it tells you what you need to know about lethal injection that prisoners would rather be shot.[4]

And then there are the men themselves. Thomas Arthur asked for the bullet. Ernest Johnson, a brain-damaged prisoner in Missouri, asked first for nitrogen gas; when the Court held that Missouri could refuse it, he asked for the bullet instead, and was told he had asked too late. The Supreme Court declined to hear him over the dissent of three justices.[5] Donald Grant and Gilbert Postelle asked for it in Oklahoma and were told they had asked too late. Brad Sigmon chose it in South Carolina because he feared what the state was hiding about its drugs. Stephen Bryant chose it. Jeffery Lee proposed it in Alabama and won. Anthony Boyd asked Alabama for a method other than nitrogen, the firing squad among them, and Alabama refused him, and I stood beside him while the state spent more than half an hour killing him instead.[6]

That is the allure, stated at full strength. Not a legislature's talking point but a convergence: a liberal justice, a leading scholar, an international abolitionist organization, and a long line of condemned men, all arriving at the bullet from different directions and for different reasons. Any honest account of this method has to reckon with that convergence before arguing against it.

The Allure Was Manufactured

Here is what I think that convergence actually shows, and it is not what it appears to show.

Every person named above was answering a question they did not choose. *Glossip v. Gross* requires a prisoner challenging an execution method to identify a known and available alternative that would significantly reduce the risk of severe pain. He cannot simply prove the state's method is cruel. He must propose the manner of his own death and then persuade a court that his proposal is better. Justice Sotomayor called this what it is: a macabre challenge.[7]

That standard does not ask whether the state should kill this man. It forecloses that question and demands, as the price of admission to federal court, that the condemned become the designer of his own execution. Under that rule, the firing squad is not chosen. It is the only door left in the room. A man who believes the needle will torture him has exactly one way to say so that a judge is obliged to hear, and that way is to ask for the gun.

So the pattern of prisoners requesting the bullet, which reads at first like evidence of the method's humanity, is better read as evidence of the standard's cruelty. These are not free preferences. They are compelled proposals, extracted by a legal test, from men with no other means of being heard. Chapter 9 argued that the choice among methods is not free because the state wrote the menu. This is the same argument one level up: the courts wrote the requirement that there be a menu at all.

And notice how the Arthur case ended. He proposed the firing squad, and the Eleventh Circuit told him it was unavailable because Alabama had not enacted it. Sotomayor saw the trap and named it: a rule that lets states immunize their execution methods from judicial review, however cruel, simply by declining to authorize the alternative.[8]

Two years later the Court closed that particular trap. In *Bucklew v. Precythe*, it held that a prisoner may look beyond the borders of the state that intends to kill him, and that the alternative he proposes need not be authorized under that state's law. I do not want to understate what that fixed. It is the reason Jeffery Lee could propose the firing squad in Alabama in 2026 and win, as Chapter 14 described.

What *Bucklew* left standing is the part that carries more weight. A condemned man must still design his own execution in order to be heard at all, and the menu he designs it from is still the state's. The state controls the menu, and then the state is protected by the shortness of the menu it controls.

That is not a system in which anyone chooses the bullet. It is a system that produces requests for the bullet and then denies most of

them. Missouri suggested the firing squad itself during oral argument in *Bucklew*. When Ernest Johnson proposed it, Missouri opposed him.

What I Have to Confess About My Own Argument

I have made an argument across this book that can be turned against me, and I would rather turn it myself than leave it lying where someone else can pick it up.

Chapter 16 argued that the firing squad is more candid than the methods that preceded it. I meant that, and I still mean it. The bullet does not wear the medical costume. There is no gurney dressed as a hospital bed, no IV line borrowed from the language of care, no official statement describing a two-and-a-half-hour failure to find a vein as a difficulty establishing venous access. When the firing squad fails, it fails in the open, in a way that shows up on an autopsy and in a witness's account of a man groaning while his chest labored.

But I have to be honest about where that argument leads if it is left unattended. If the firing squad is more candid, and if candor is a virtue, then a reader can arrive at a conclusion I do not hold and have never held: that the bullet is therefore better, and that a state serious about doing this decently should reach for the gun. Justice Sotomayor got most of the way there in 2017 on evidence far thinner than what we now have. I can feel the pull of it myself. I want to describe the moment I felt it most, because it is the reason these last pages exist.

Anthony Boyd knew exactly what nitrogen had done to Kenneth Smith. He had asked Alabama for something else, the firing squad among the alternatives he raised, and Alabama had refused him. So he made a plan. He told me that if he was still conscious after the gas began, he would lift his legs off the gurney, so that the people on the other side of the glass would know. That was the entire instrument available to him. The state controlled the mask, the timing, the protocol, and the language of the press release afterward. It did not control his legs.

The gas began at about 5:57. He clenched his fist. He raised his head off the gurney. Then he lifted his legs, several inches, exactly as he had

said he would.[9] By my watch he was conscious and fighting for at least nineteen minutes. He was pronounced dead at 6:33. Afterward the commissioner told reporters that the shaking and the other movements were involuntary, and that while the execution had taken longer than the others it was only a few minutes past some of them.[10]

That exchange is this entire book compressed into a single evening. A man arranges, in advance, the only signal his body will still be able to send. He sends it. And the institution that built the room, wrote the protocol, chose the gas, and shielded the record explains to the press that the signal was a muscle spasm and means nothing. There is no autopsy for that. There is no measurement that settles it. There is a state's account, and there is the account of the one person standing close enough to have been told in advance what to watch for.

So yes. Some part of me, the part that stood beside a man for nineteen minutes while he used his legs to say *I am still here*, understands exactly why Anthony Boyd asked to be shot instead. I would be lying if I pretended otherwise, and this book has been about lying.

So let me close that door as directly as I know how. These pages do not rank methods. They have refused to rank them from the first page, and they refuse now. Saying that the firing squad lies less is not saying that the firing squad is better. It is saying that it is worse at concealing what all of them are. Candor about an atrocity is not a mitigation of the atrocity. A state that kills you honestly has still killed you, and the honesty belongs to the observer rather than to the man in the chair, who does not experience the state's truthfulness as any kind of mercy at all.

The evidence settles the rest. Sotomayor wrote in 2017 that the firing squad had historically yielded significantly fewer botched executions, and she was right about the record as it existed then: three modern American executions, all in Utah, none documented as having failed. That record no longer exists. South Carolina tripled the sample in eight months, and one of those three produced two entrance wounds where three shooters fired, a complaint to the state supreme court, and a pathologist's estimate of thirty to sixty seconds of consciousness. The

empirical foundation of the strongest argument for the bullet was dissolved by the bullet itself, in under a year, in a single state.

What the Word "Clean" Was Always Doing

I want to look directly at the word in the title, because it has been doing quiet work for a hundred and fifty years and almost nobody examines it.

A clean kill. The phrase is not about the person dying. A man shot through the heart does not experience his death as tidy, and a man shot through the liver experiences the difference as thirty to sixty seconds of drowning in his own chest. Cleanliness is not a category available to the person being killed. It is a category available only to the people watching, and to the institution that has to file the paperwork afterward.

Clean means no mess the witnesses have to carry home. Clean means a curtain that opens on a body already hooded and already still. Clean means an autopsy that matches the protocol, a press release that requires no revision, a commissioner who can say he would not necessarily characterize what happened as a problem. Clean means the state's hands look the same afterward as they did before. Every method this country has adopted has promised cleanliness in exactly that sense, and every method has delivered it, at least most of the time, to everyone except the person on whom it was performed.

This is why the promise renews itself with each new technology. The promise was never falsified for the people it was made to, because it was never made to the condemned. It was made to us. Hanging was replaced when the public could no longer stand what it looked like. The electric chair was replaced for the same reason, and the gas chamber after it, and lethal injection is being replaced now, not because we learned it was agonizing — we learned that decades ago — but because it became agonizing *to watch*, and unreliable enough to embarrass the states performing it. The firing squad is the current answer to a question about our comfort. It was never a question about their pain.

The lie of the clean kill, then, is not primarily a lie the state tells the public. It is a lie the public accepts because the alternative is to look at

something we would rather not see. The state supplies the vocabulary. We supply the appetite for it.

IDAHO, SPECIFICALLY

All of which brings us back to where this started, which is a room.

On July 1, 2026, Idaho became the only state in the country where the default way of executing a person is to shoot him. It got there by the route traced here: eight failed attempts at Thomas Creech's veins in February 2024, a legislature that passed House Bill 37 by fifty-eight to eleven, a senate that followed twenty-eight to seven, and a governor's signature in March 2025. Then fourteen months and more than 1.2 million dollars to build the room, during which the state could not execute anyone at all. Then a second law, House Bill 803, exempting the apparatus from judicial review and extending anonymity to the shooters and to anyone providing what the statute calls technical assistance, without defining it.[11]

Eight people are waiting on the other end of that machinery. A man who has been on death row since before some of his prosecutors were born. A man who has been in hospice care inside a prison since 2019, outliving by six years the doctors' estimate of his remaining life. A woman held alone, two hundred and fifty miles from the men, for whom no protocol was ever designed. A man sentenced at twenty who is approaching fifty. A man whose trial the whole country watched. A man about whom almost nothing was written until someone went looking. And the officers who will be asked to shoot them, drawn from a professional class, qualified at one hundred percent accuracy from seven yards, asked to fire from ten, and denied even the blank round that once let a man tell himself he might not have been the one.

Idaho did not choose the bullet because Idaho concluded the bullet was humane. Idaho chose the bullet because the drugs ran out and a man survived his own execution in front of the state's own witnesses, and because the bullet was the thing available that looked like an answer. Every state that follows will follow for the same reason. The allure of the

bullet is not the allure of mercy. It is the allure of a supply chain the state can actually control.

The Last Thing the Target Has to Say

I have watched thirteen of these. I have stood close enough to touch men while states killed them by lethal injection and by nitrogen gas, and I have listened to both methods described in advance as sudden, painless, certain. I have not once watched a method perform the way its advocates promised it would.

So I want to end by saying what I think that phrase actually means, now that the whole argument stands behind it.

The lie of the clean kill is not the claim that this particular bullet will land in this particular heart. That claim is merely false, and the state's own autopsies prove it false. The lie is larger and older. The lie is that there exists somewhere, in some method not yet perfected, a way for a government to take a restrained and helpless person's life that will leave everyone involved unmarked: the officers who fire, the witnesses who watch, the public that authorized it, the state that ordered it. That is the promise every method has made. That is the promise the firing squad is making now in Idaho, with a room and a chair and a target the size of a fist. And that is the promise no method has ever kept, because it is not a promise about engineering. It is a promise about escaping consequence, and there is no such thing.

The bullet is alluring because it is fast, and because fast looks like kind, and because a country exhausted by four decades of botched executions badly wants something that finally works. I understand the appeal. I have felt it. But speed is not mercy, and certainty is not innocence, and a method that fails less often than the one before it is still a method for killing people who are already in cages and cannot fight back.

There is a target waiting in F-Block, cut to the size of a human heart. It will be pinned to someone. Everything documented here says the state cannot promise where the bullet will land, cannot promise what the man

will feel, cannot promise what the officers will carry, and cannot promise the public an execution it will not have to look away from. The state can promise only that it intends to fire.

The clean kill does not exist. It never existed. The bullet did not make it exist, and no method that comes after the bullet will make it exist either. The only clean thing available to Idaho is the thing it has not yet considered: an empty chair, a target unpinned, eight people alive in their cells tomorrow morning, and a rifle that was never loaded because no one was asked to load it.

That is not mercy withheld from the dead. It is honesty finally extended to the living. It is the one outcome that requires no hood, no shield law, no pull-shade, no autopsy, and no lie. And it remains available, every single day, right up until the moment somebody gives the order to shoot.

NOTES

1. *Arthur v. Dunn*, 580 U.S. ___ (2017), No. 16-602 (Sotomayor, J., joined by Breyer, J., dissenting from the denial of certiorari), supremecourt.gov. Arthur proposed the firing squad as his alternative method under *Glossip*; the Eleventh Circuit held it was not "known and available" because Alabama law did not expressly authorize it.

2. *Arthur v. Dunn* (Sotomayor, J., dissenting). The phrases paraphrased and quoted here — that a competently performed shooting may cause nearly instant death, that death by shooting "may also be comparatively painless," that the firing squad has "historically yielded significantly fewer botched executions," and that lethal injection may prove "our most cruel experiment yet" — appear throughout the dissent. See also Mark Joseph Stern, "Justice Sotomayor Takes Aim at Lethal Injection, 'Our Most Cruel Experiment Yet,'" *Slate*, February 21, 2017.

3. Deborah W. Denno, "The Firing Squad as a 'Known and Available Alternative Method of Execution' Post-*Glossip*," 49 U. Mich. J.L. Reform 749 (2016); Denno, quoted in Associated Press coverage of the Sigmon execution, March 2025.

4. Matt Wells, deputy director of Reprieve US, statement to *Newsweek*, March 2025. On Sigmon's stated reasons for selecting the firing squad, see Associated Press and *Post and Courier* coverage, March 7, 2025, and Chapter 9.

5. *Johnson v. Precythe*, 593 U.S. ___ (2021), No. 20-287 (Sotomayor, J., joined by Breyer and Kagan, JJ., dissenting from the denial of certiorari). Johnson's operative 2016

complaint proposed nitrogen gas, a method authorized under Missouri law; after *Bucklew v. Precythe*, 587 U.S. 119 (2019), held that a state could decline nitrogen for lack of a "track record of successful use," Johnson sought to propose the firing squad, and the Eighth Circuit held the proposal untimely. See also Nina Totenberg, "An Inmate Who Sought Execution By Firing Squad Loses Supreme Court Appeal," NPR, May 24, 2021.

6. On Boyd's request for an alternative method, including the firing squad, and the timeline of his October 23, 2025 execution, see Chapter 12; Sarah Clifton, *Montgomery Advertiser*, October 23, 2025; Death Penalty Information Center, "Alabama Execution Witnesses Report 'Violent Thrashing' of Prisoner and More Than 225 'Agonized Breaths' in Nitrogen Gas Execution," October 27, 2025. On Lee, see Chapter 14; on Grant and Postelle, Chapter 15; on Bryant, Chapters 5 and 9.

7. *Arthur v. Dunn* (Sotomayor, J., dissenting) (describing the *Glossip* alternative-method requirement as a "macabre challenge"); *Glossip v. Gross*, 576 U.S. 863 (2015).

8. *Arthur v. Dunn* (Sotomayor, J., dissenting) (arguing that the Eleventh Circuit's rule permits States to immunize their execution methods from judicial review and allows state law to subvert the Federal Constitution); *Bucklew v. Precythe*, 587 U.S. 119 (2019) (holding that a prisoner's proposed alternative method need not be authorized under the law of the executing state, and that he may identify a method used in other jurisdictions).

9. Boyd was pronounced dead at 6:33 p.m.; see Associated Press and UPI coverage, October 23, 2025. That Boyd intended to communicate through leg movements was reported at the time by the Associated Press, which noted that his spiritual adviser said Boyd planned to try to signal in that way; see Associated Press coverage of the October 23, 2025 execution, carried by ABC7 and other outlets. On the sequence itself — gas beginning at approximately 5:57 p.m., Boyd clenching his fist, raising his head slightly off the gurney, and then raising his legs several inches before the movements stopped and heaving breaths began — see Associated Press and CBS News accounts of the execution, and Sarah Clifton, *Montgomery Advertiser*, October 23, 2025.

10. Alabama Department of Corrections Commissioner John Hamm, in remarks to reporters following the execution, characterized Boyd's shaking and other movements as involuntary and described the execution as running only a few minutes past some of the others, while acknowledging it was the state's longest nitrogen execution to that point. See Associated Press coverage, October 23–24, 2025; Death Penalty Information Center, "Alabama Execution Witnesses Report 'Violent Thrashing' of Prisoner and More Than 225 'Agonized Breaths' in Nitrogen Gas Execution," October 27, 2025.

11. On Idaho House Bill 37 (2025), the vote margins, and the March 12, 2025 signing, see Chapter 3. On the F-Block retrofit cost and timeline, Chapter 13. On House Bill 803 (2026), Chapter 13. On the qualification standard and the absence of a blank round, Chapter 11. On the eight people currently under sentence of death in Idaho, Chapter 10.

EPILOGUE

The Warrant That Has Not Come

* * *

Idaho's law took effect on July 1, 2026. This book is being finished in the weeks after. It would be easy to believe the state is loaded and waiting. It is not.

Nothing happens in Idaho until someone seeks a death warrant. The attorney general asks. A court issues. Within five days, the director of the Department of Correction must certify by affidavit whether the firing squad is available. If she certifies, the shooters are called. If she does not, or if she files nothing, the state reverts to a lethal injection protocol it has not been able to carry out since 2012.[1]

No warrant has been sought since the statute took effect.[2]

The two men most often named as the likely first are both beyond the state's reach at the moment. Thomas Creech has been under a federal stay since November of 2024. Gerald Pizzuto has been under one longer than that. Neither stay concerns the firing squad. Both concern what the state did, or failed to do, with the needle.[3] And a separate federal injunction, entered in the media access case three Idaho news organizations brought against the Department of Correction, has

restrained Idaho from carrying out executions while that litigation proceeds.[4]

In the second week of July 2026, days after the law took effect, Creech and Pizzuto sued. Their complaint does not principally argue that being shot is cruel. It argues something narrower and harder to answer: that House Bill 803 stripped the public of any right to see the rules before the state uses them, and that a department writing its own execution procedures without notice, comment, or review is not operating under law in any sense the word usually carries.[5] That case is pending.

So the killing room is finished. The rifles are bought, the volunteers are trained, and the protocol is signed. Idaho has built the most complete firing squad apparatus in American history and, as of this writing, has no lawful path to use it.

I want to be careful about what that does and does not mean. It is not safety. Stays are lifted. Injunctions are narrowed on appeal. Litigation ends, usually in the state's favor, usually quietly, usually on a Friday. The eight people named in Chapter 10 are not safe. They are waiting, which is the condition they have been in for decades and the condition this method was adopted to end.

What the interval offers is not reprieve. It is time. Every fact set down here was available to Idaho's legislature before it voted, and most of it was available before the chamber was built. None of it changed the outcome. It is still available now, to a governor who can commute, to a director who can decline to certify, to a legislature that meets again in January. The affidavit that has not been signed is the smallest and most ordinary thing in this entire apparatus. One person, one document, five days.

Someone will sign it. That is the likeliest end of this story, and I have no reason to predict otherwise. But the thing about a switch is that it can be left alone, and the thing about a book is that it can reach the hand before the hand reaches the switch. This one was written to be in that room first.

NOTES

1. Idaho Code § 19-2716(2)-(4). On the state's last completed execution, that of Richard Leavitt in June 2012, see Appendix A.

2. As of the completion of this manuscript in late August 2026, no death warrant had been sought under the amended statute. Readers should assume this has changed.

3. On the November 2024 federal stay in Thomas Creech's case and the litigation posture in Gerald Pizzuto's, see Chapters 2 and 10 and Appendix A.

4. On the media access litigation brought by the Idaho Statesman, the Associated Press and East Idaho News, and the resulting injunction restraining executions in Idaho, see Chapter 13 and "Idaho plans for firing squad executions aim to keep prison staff from rifles," Idaho Statesman, 2025.

5. On the July 2026 complaint challenging House Bill 803's exemption of execution procedures from the Idaho Administrative Procedure Act, see Chapter 13.

APPENDICES

APPENDIX A

Timeline of the Firing Squad in the Modern Era

* * *

1960. James W. Rodgers is executed by firing squad in Utah, the last such execution before the temporary nationwide suspension of capital punishment that followed *Furman v. Georgia* (1972).

1976. *Gregg v. Georgia* reopens the door to capital punishment nationwide.

1977, January 17. Gary Gilmore is executed by firing squad in Utah, the first execution in the United States following *Gregg*.

1978. Idaho adopts lethal injection as a method of execution.

1994. Keith Wells is executed by lethal injection in Idaho, the state's first execution since 1957.

1996. John Albert Taylor is executed by firing squad in Utah.

2010, June 18. Ronnie Lee Gardner is executed by firing squad in Utah, the last such execution in the United States for fifteen years.

2011. Paul Ezra Rhoades is executed by lethal injection in Idaho.

2012, June 12. Richard Leavitt is executed by lethal injection in Idaho. It remains the state's most recent execution. Witnesses were permitted to observe the full process for the first time only because a court ordered it in response to a lawsuit brought by news organizations.

2015. Utah enacts House Bill 11, adding a second trigger to its existing firing squad provision: if the substances required for lethal injection are unavailable on the date specified by the death warrant, the sentence is to be carried out by firing

squad.

2021. South Carolina adds the firing squad as an execution option and makes the electric chair, rather than lethal injection, the state's default method absent an affirmative selection by the condemned.

2022, March. Idaho enacts an execution secrecy law barring disclosure, to the public and to the courts, of the identities, skills, and qualifications of members of an execution team.

2023, March 24. Governor Brad Little signs House Bill 186, authorizing the firing squad in Idaho as an alternative method, available only if lethal injection is unavailable. In the same period, South Carolina's own execution secrecy law is expanded.

2024, January 25. Alabama executes Kenneth Eugene Smith by nitrogen hypoxia, the first execution by that method in American history. Smith had survived a failed lethal injection attempt in November 2022. This book's author served as his spiritual adviser.

2024, February 28. Idaho attempts to execute Thomas Creech by lethal injection. The execution team fails, after eight attempts across roughly an hour, to establish a usable IV line, and the execution is called off.

2024, July 31. The South Carolina Supreme Court holds that the electric chair and the firing squad are both constitutional under state law, clearing the way for executions to resume after a thirteen-year pause.

2024, September 20 and November 1. South Carolina executes Freddie Eugene Owens and Richard Bernard Moore by lethal injection, its first executions in thirteen years.

2024, October 16. Idaho serves a new death warrant on Thomas Creech, scheduling execution for November 13.

2024, November. A federal judge grants Creech a stay of execution pending challenges to Idaho's revised lethal injection protocol.

2025, January. Idaho House Bill 37 is introduced, with sixteen Republican co-sponsors, to make the firing squad Idaho's primary execution method.

2025, February 6. The Idaho House passes House Bill 37, 58 to 11. Two Republicans vote no.

2025, March 5. The Idaho Senate passes House Bill 37, 28 to 7. One Republican votes no.

2025, March 7. Brad Sigmon is executed by firing squad in South Carolina, the first such execution in the United States in fifteen years. His autopsy shows three distinct wounds, all in the intended vicinity of the heart.

2025, March 12. Governor Little signs House Bill 37 into law, effective July 1, 2026.

2025, March 17 and 24. The Idaho House passes House Bill 380 unanimously, and the Idaho Senate passes it 30 to 5. The bill creates a new capital offense of aggravated lewd conduct with a child age twelve or younger.

2025, March 27. Governor Little signs House Bill 380 into law.

2025, April 11. Mikal Mahdi is executed by firing squad in South Carolina. His attorneys and their retained pathologist say only two bullets struck him and that neither fully struck the heart; the Department of Corrections maintains two bullets created a single wound and that the heart was hit.

2025, May. Idaho announces that F-Block will be taken offline for construction, leaving the state unable to carry out any execution by any method until the retrofit is complete.

2025, July 1. Florida's House Bill 903 takes effect, authorizing execution by any method not deemed unconstitutional if electrocution or lethal injection is held unconstitutional or lethal injection drugs become unavailable or impractical.

2025, October 23. Alabama executes Anthony Boyd by nitrogen hypoxia after he asks to be executed by firing squad instead. Justice Sotomayor, joined by Justices Kagan and Jackson, dissents from the denial of a stay in *Boyd v. Hamm*. This book's author served as his spiritual adviser.

2025, November 14. Stephen Corey Bryant is executed by firing squad in South Carolina, the third such execution in that state within roughly eight months.

2025, November 26. Ralph Leroy Menzies, whose September 5 firing squad execution had been called off by the Utah Supreme Court, dies of presumed natural causes in state custody, nine days after the State's own evaluator found him incompetent to be executed and before the court could rule.

2026, January 21. Indiana's House Committee on Courts and Criminal Code advances House Bill 1119, which would authorize the firing squad and nitrogen hypoxia, by a vote of eight to five.

2026, January 28. House Bill 1119 is defeated on the Indiana House floor, 48 to 47, three votes short of the constitutional majority required for passage. Nineteen Republicans join twenty-eight Democrats in opposition. Nitrogen hypoxia had already been stripped from the bill by floor amendment. Indiana does not become the sixth state to authorize the firing squad.

2026, February 9. Erick Hall, an Idaho death row prisoner, dies in state custody of a stroke, before any execution is carried out.

2026, March 31. Governor Little signs Idaho House Bill 803, exempting the Department of Correction's execution procedures from judicial review under the state Administrative Procedure Act and extending anonymity to firing squad members and to any person or entity providing technical assistance during an execution. It takes effect July 1, 2026.

2026, April 24. The U.S. Department of Justice's Office of Legal Policy releases *Restoring and Strengthening the Federal Death Penalty*, a forty-eight-page report directing the Federal Bureau of Prisons to reinstate the single-drug pentobarbital protocol and to expand its methods to include the firing squad, electrocution, and lethal gas. It is the first formal federal authorization of the firing squad in American history.

2026, June 8. A panel of the Eleventh Circuit finds Alabama's nitrogen protocol presents a substantial risk of serious harm and remands for consideration of Jeffery Lee's proposed alternative, the firing squad.

2026, June 9. U.S. District Judge Emily C. Marks permanently enjoins Alabama from executing Lee by nitrogen hypoxia and finds that the firing squad is feasible, readily implemented, and significantly reduces the risk of severe pain relative to nitrogen.

2026, June 11. The U.S. Supreme Court denies Alabama's emergency application. Justices Thomas, Alito, and Gorsuch would have granted it.

2026, July 1. Idaho's firing squad protocol takes effect, making Idaho the first and only state to designate the firing squad its primary method of execution. House Bill 803 takes effect the same day.

2026, July. Thomas Creech and Gerald Pizzuto sue the Idaho Department of Correction over the new execution protocol, arguing that the director's approval of it was arbitrary, capricious, and an abuse of discretion.

2026, July 30. Alabama Governor Kay Ivey sets a new execution date for Jeffery Lee, by lethal injection, for September 17, 2026.

Appendix B

The Legislative Record in Idaho

* * *

House Bill 186 (2023): the alternative-method statute

Idaho's legislature authorized the firing squad as an alternative execution method, to be used only when lethal injection was unavailable. Governor Little signed the bill on March 24, 2023, and it took effect July 1 of that year. The measure was framed publicly as a contingency addressing the state's documented difficulty acquiring lethal injection drugs, rather than as an endorsement of the firing squad on independent merit.

House Bill 37 (2025): the inversion

Introduced in January 2025 with sixteen Republican co-sponsors, House Bill 37 reversed the 2023 hierarchy, making the firing squad Idaho's primary method of execution and lethal injection the fallback, available only if the firing squad is held unconstitutional, is unavailable, or otherwise cannot be used.

The Idaho House passed the bill on February 6, 2025, by a vote of 58 to 11. The Idaho Senate passed it on March 5, 2025, by a vote of 28 to 7. Governor Brad Little signed it on March 12, 2025. It took effect on July 1, 2026.

Across both chambers, only three Republican legislators voted against the bill: Representatives Lori McCann of Lewiston and Benjamin Goode, serving that week as a substitute, in the House, and Senator Dan Foreman of Viola in the Senate. All fifteen Democratic legislators in the two chambers voted no.

House Bill 380 (2025): the companion capital statute

Passed in the same legislative session, House Bill 380 was sponsored by Representative Bruce Skaug and House Assistant Majority Leader Josh Tanner. It creates a new criminal offense, aggravated lewd conduct with a child age twelve or younger, and makes that offense punishable by death where the statutorily specified aggravating factors are present. It also establishes mandatory minimum sentences for aggravated lewd conduct with minors age sixteen and under that do not meet the criteria for capital eligibility.

The Idaho House passed the bill unanimously on March 17, 2025, with seven members absent. The Idaho Senate passed it 30 to 5 on March 24. Governor Little signed it on March 27, 2025. The statute exists in evident tension with the U.S. Supreme Court's 2008 ruling in *Kennedy v. Louisiana*, which held that the Eighth Amendment bars capital punishment for the rape of a child where the crime did not result in, and was not intended to result in, the victim's death.

House Bill 803 (2026): shielding the apparatus

Signed by Governor Little on March 31, 2026 and effective July 1, 2026, the same day the firing squad became Idaho's primary method, House Bill 803 does two things. It exempts the Department of Correction's

execution procedures from judicial review under the state Administrative Procedure Act, meaning the corrections director may revise the execution protocol without public notice and without ordinary judicial oversight, subject only to constitutional challenge. And it extends the state's execution secrecy provisions to members of the firing squad and to any person or entity providing what the statute calls technical assistance during an execution, a phrase the statute does not define. The measure had stalled earlier in the session as House Bill 525 before being reintroduced.

Appendix C

Idaho's Firing Squad Protocol — A Summary

* * *

The following summarizes publicly reported elements of Idaho's firing squad protocol as finalized ahead of the July 1, 2026 effective date. Some operational details remain shielded from public disclosure under Idaho's execution secrecy statutes, a pattern described in Chapter 8 and substantially widened by House Bill 803, discussed in Chapter 13.

Facility. Executions are carried out in a renovated unit of F-Block at the Idaho Maximum Security Institution, south of Boise. Construction began in 2025 and cost in excess of 1.2 million dollars, against an early departmental estimate closer to nine hundred thousand. The renovation included gun ports cut into a wall separating the shooting team from the execution chamber, a restraint chair, and sandbags positioned to catch rounds that do not strike or that pass through the condemned person. For comparison, South Carolina retrofitted its own chamber to add a firing squad in 2022 for roughly fifty-four thousand dollars.

Shooting team composition. The team is drawn from trained, POST-certified law enforcement officers serving voluntarily, rather than from an open call for civilian volunteers. Idaho's 2023 statute had

framed participation in broader terms; the narrowing to sworn officers came with the finalized protocol.

Qualification requirements. A volunteer must hold a minimum of three years of active POST certification; must have no disciplinary action relating to firearms use or use of force within the preceding twelve months; must have no blood or legal relationship to the condemned person or to any victim; and must demonstrate one hundred percent accuracy from a minimum of seven yards against a target matching the size, shape, and height of the one used in an actual execution. Failure to hit the target with every round from every assigned firearm disqualifies the volunteer outright.

Firing procedure. The team leader loads one live round into a magazine for each of the three firearms, and on the command to fire the team discharges simultaneously. Unlike the historical Utah protocol, in which one rifle among several was loaded with a blank or wax round to preserve ambiguity about individual responsibility, Idaho's protocol as reported issues live ammunition to every member of the team.

Target. A marker approximately the size of a fist is positioned over the condemned person's heart before the execution, located and placed by a physician.

APPENDIX D

The Jurisdictions

* * *

Five states authorize the firing squad by name. Three more — Florida, North Carolina, and Tennessee — authorize it by implication, through open-ended statutes providing that if their named methods are held unconstitutional or become unavailable, executions proceed by any method not deemed unconstitutional. The federal government added it by policy in 2026. Six firing squad executions have been carried out in the United States since 1977, three of them in a single state in a single year. What follows is a file on each jurisdiction: how the method reached the books, what the statute actually requires, and what would have to happen for a rifle to be used.

Utah

STATUS: NARROW STATUTORY EXCEPTION

Historical. Utah is the taproot. The 1851 territorial assembly designated three punishments for murder: shooting, hanging or beheading.[1] Historians of Mormon doctrine tie the beheading and

shooting provisions directly to blood atonement theology and to the men who sat in that assembly, including Brigham Young, Jedediah M. Grant and Heber C. Kimball.[2] An 1877 Utah sentencing produced the first U.S. Supreme Court case testing a specific method, *Wilkerson v. Utah*, 99 U.S. 130 (1878), which upheld shooting.[1] Of the roughly fifty executions in Utah since the 1850s, about forty were by firing squad.[3] Gary Gilmore, shot January 17, 1977, was the first person executed anywhere in the country in the modern era. John Albert Taylor followed on January 26, 1996, and Ronnie Lee Gardner on June 18, 2010.[34] Until South Carolina in 2025, Utah was the only state to have used the method since 1977.[4]

Legislative. House Bill 180 in 2004 removed the defendant's right to elect the firing squad, making lethal injection the method for anyone sentenced on or after May 3, 2004, while preserving the election for those who had already made it.[5] That grandfather clause is how Taylor and Gardner came to be shot after the repeal.[6] House Bill 11 in the 2015 session restored the method as a contingency where the drugs are not reasonably available.[7] The provision now sits at Utah Code § 77-18-113, renumbered from the former § 77-18-5.5.[8]

Contemporary. Four triggers replace lethal injection with the firing squad. One: a court holds the defendant's right to be shot was preserved. Two: a court holds lethal injection unconstitutional on its face. Three: a court holds it unconstitutional as applied to that defendant. Four: the sentencing court determines the state cannot lawfully obtain the necessary substances thirty or more days before the warrant date.[8] The fourth is the one most often omitted from summaries, and it is the one that matters. It requires no ruling against lethal injection, only a finding that the shelf is empty. Squads in Utah consist of five certified peace officers, one issued a blank at random, none knowing who.[4]

The case that would have tested all of this was Ralph Leroy Menzies, convicted in 1988 of the 1986 murder of Maurine Hunsaker, and one of two men still holding a preserved election to be shot.[5] [6] Menzies had vascular dementia. On June 6, 2025, Third District Judge Matthew Bates

found him competent to be executed; on July 9 Bates signed a death warrant setting the execution by firing squad for September 5.[9] On August 29, 2025, the Utah Supreme Court unanimously vacated that warrant, holding that Menzies had made a prima facie showing of material deterioration entitling him to a new competency determination.[4] [10] Bates set a hearing for the second week of December. Then, on November 17, the State's own forensic psychologist, Dr. Michael Brooks — who had twice before found Menzies competent — reversed himself, concluding that Menzies no longer had a rational understanding of why the State intended to execute him, that he was not competent, and that there was no realistic prospect of restoration, his dementia being progressive and untreatable.[11] [12]

The hearing never happened. Menzies died of presumed natural causes at a hospital on November 26, 2025, at the age of sixty-seven, nine days after the State's evaluator declared him incompetent and roughly two weeks before the court was to rule.[13] The proceedings ended without any final determination. Utah spent thirty-seven years preparing to shoot a man and did not manage it. A daughter of Maurine Hunsaker had opposed the execution;[4] her brother, told of the death, said he was numb and grateful his family would not have to endure the case through the holidays.[14]

Three men remain under sentence of death in Utah, on a row that has produced no new death sentence since 2008.[15] One of them, Troy Kell, still holds an election to be shot.[6]

NOTES

1. Associated Press via St. George News, "Man killed by firing squad for the 1st time in 15 years. A look at Utah's history," March 8, 2025. https://www.stgeorgeutah.com/news/man-killed-by-firing-squad-for-the-1st-time-in-15-years-a-look-at/article_be4765fe-fa22-11ef-b64d-cbadba2dc8a9.html

2. Martin R. Gardner, "Mormonism and Capital Punishment: A Doctrinal Perspective, Past and Present," Dialogue: A Journal of Mormon Thought. https://www.dialoguejournal.com/wp-content/uploads/sbi/articles/Dialogue_V12N01_11.pdf

3. KSL, "Experts argue firing squad is a humane execution," June 2010. https://www.ksl.com/article/news/utah/experts-argue-firing-squad-is-a-humane-execution/11194774

4. Death Penalty Information Center, "Utah Supreme Court Stays Ralph Menzies' Execution After Finding 'Serious and Significant Questions' About his Competency," September 2, 2025. https://deathpenaltyinfo.org/utah-supreme-court-stays-ralph-menzies-execution-after-finding-serious-and-significant-questions-about-his-competency

5. Utah H.B. 180 (2004), enrolled text amending § 77-18-5.5. https://le.utah.gov/~2004/bills/hbillenr/HB0180.htm

6. LegalClarity, "Utah Death Penalty Methods: Lethal Injection and Firing Squad," May 2026. https://legalclarity.org/utah-death-penalty-methods-lethal-injection-and-firing-squad/

7. Utah Legislature, Death Penalty Procedure Amendments, 2015 General Session draft (2015FL-0007/006). https://le.utah.gov/Interim/2014/pdf/00005163.pdf

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South Carolina

STATUS: INMATE ELECTION, THREE CARRIED OUT

Historical. South Carolina could not obtain lethal injection drugs and carried out no executions between 2011 and September 2024, a pause of thirteen years.[1] Stephen Bryant, executed November 14, 2025, was the fiftieth person put to death in the state since capital punishment resumed after 1976.[2]

Legislative. The 2021 restructuring of S.C. Code § 24-3-530 made electrocution the statutory default and added the firing squad alongside lethal injection as methods the condemned may elect.[3] The election must be made in writing at least fourteen days before the scheduled date. A refusal to choose results in electrocution.[4] A 2023 shield law concealed the identity of drug suppliers, execution team members and certain witnesses, which allowed the state to obtain compounded pentobarbital and restart executions.[5] In *Owens v. Stirling*, 904 S.E.2d 580 (S.C. 2024), the South Carolina Supreme Court upheld all three methods under the state constitution.[6]

Contemporary. Three men have died before a South Carolina firing squad, all in 2025: Brad Sigmon on March 7, the first anywhere in the country in fifteen years; Mikal Mahdi on April 11; and Stephen Bryant on November 14.[782] The protocol seats the prisoner in a chair with head and limbs strapped, hoods him, and places a white target with a red bullseye over the heart. Three volunteers fire live rounds from behind a wall, from fifteen feet, using ammunition calculated to do maximum damage to the heart.[59] Sigmon was pronounced dead in under three minutes and his heart was essentially destroyed. Mahdi's autopsy recorded two entrance wounds rather than three, low on the chest, with only fragment perforation of the right ventricle and the wound tracks running downward through the liver, pancreas, and lower left lung. His counsel argued he remained consciously in pain for thirty to sixty seconds.[910] The miss was reported by NPR and The Guardian in May

2025.[10] Bryant made no statement and no sound. The bullseye flew from his chest and he was pronounced dead at 6:05 p.m.[11] Mahdi's lawyer described the statutory election as choosing the lesser of three evils.[12]

NOTES

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Oklahoma

STATUS: FOURTH IN A CASCADE, NEVER USED

Historical. Oklahoma originated the modern lethal injection protocol, proposed by state medical examiner Jay Chapman in 1977.[1] It has never used a firing squad and has not electrocuted anyone since 1966.[2] Its credibility on method collapsed with the execution of Clayton Lockett in April 2014, who was seen writhing on the gurney and died roughly forty minutes in after a misplaced IV line.[3]

Legislative. Before 2015 the statutory order ran lethal injection, then electrocution, then firing squad.[4] House Bill 1879, authored by Rep. Mike Christian and Sen. Anthony Sykes and signed by Gov. Mary Fallin on April 17, 2015, made Oklahoma the first state to authorize nitrogen hypoxia and inserted it as the second alternative, moving electrocution to third and the firing squad to fourth. It passed 85-10 in the House and 41-0 in the Senate.[45] The cascade is codified at 22 O.S. § 1014, subsections A through D.[6]

Contemporary. Reaching the rifle requires the collapse of three methods above it, each by an appellate holding of unconstitutionality or a finding of unavailability.[6] That is less remote than it sounds. On June 9, 2026 U.S. District Judge Emily Marks permanently enjoined Alabama from using nitrogen gas to execute Jeffery Lee, finding the method unconstitutionally cruel. On June 11 the Supreme Court declined Alabama's request to proceed.[7] Marks found the firing squad to be a feasible and readily implemented alternative that substantially reduces the risk of severe pain, the standard drawn from *Glossip v. Gross*, 576 U.S.

863 (2015), and *Bucklew v. Precythe*, 587 U.S. 119 (2019).[7] Litigation of that kind, reaching Oklahoma's drug supply and its nitrogen protocol together, is the only realistic path to a rifle in McAlester.

NOTES

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Mississippi

STATUS: COMMISSIONER'S DISCRETION, NEVER USED

Historical. Mississippi has never used a firing squad. It carried out no executions between 2012 and 2021, unable to obtain drugs and in litigation over its three-drug protocol.[1] Since then it has executed four men: David Cox on November 17, 2021, Thomas Loden in December 2022, Richard Gerald Jordan on June 25, 2025 and Charles Ray

Crawford on October 15, 2025.[1234] Jordan was the state's oldest and longest-serving condemned prisoner, a Vietnam combat veteran with PTSD, executed forty-nine years after the crime. He thanked the state for a humane death.[3]

Legislative. House Bill 638 of 2017, sponsored by Rep. Andy Gipson and framed by him as a response to lawsuits by "liberal, left-wing radicals," amended Miss. Code § 99-19-51 to add methods beyond lethal injection. The Senate initially stripped the firing squad and kept only gas and the chair.[56] As reported, the act arranged the methods in a cascade.[7] The section as codified today is flat rather than sequential. It lists four authorized manners at subsections (1)(a) through (1)(d), including the firing squad, declares intravenous injection the state's preferred method as a matter of policy, vests in the Commissioner of Corrections the authority and discretion to select the means, and requires written notice to the condemned person of the manner of execution within seven days of the warrant issuing from the Mississippi Supreme Court.[89] Rep. Summers has repeatedly filed bills to strike the firing squad from the section. None has advanced.[10]

Contemporary. Mississippi is the only firing squad jurisdiction in which the method may be reached by administrative discretion alone. There is no cascade to exhaust, no court finding to obtain and no election by the prisoner.[8] Roughly three dozen people are under sentence of death at Parchman.[10] Commissioner Burl Cain has led the selection of lethal injection in every case to date.[3] Nothing requires Cain and other administrative officials to keep doing so.

NOTES

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Idaho

STATUS: PRIMARY METHOD AS OF JULY 1, 2026

The primary method of execution as of July 1, 2026, with lethal injection as the fallback. Idaho is the first and only jurisdiction in American history to make the firing squad its default rather than its contingency. The statutory route is traced in Appendix B and the protocol is summarized in Appendix C. No firing squad execution has been carried out as of this writing. Eight people are under sentence of death: seven men at the Idaho Maximum Security Institution and one woman at the Pocatello Women's Correctional Center.

Florida

STATUS: AUTHORIZED BY IMPLICATION, NEVER USED

Not named in statute, but authorized by implication. House Bill 903, signed May 22, 2025 and effective July 1, 2025, provides that if electrocution or lethal injection is held unconstitutional, or if lethal injection drugs become unavailable or impractical to use, all persons sentenced to death shall be executed by a method not deemed unconstitutional. Contemporaneous coverage understood the provision as opening the door to the firing squad, nitrogen gas and hanging. Florida carried out nineteen executions in 2025, a modern state record. No firing squad execution has been carried out. Of the three states that have authorized the method by implication, Florida combines the broadest language with by far the highest execution volume, which is the combination that matters.

Indiana

STATUS: NOT AUTHORIZED, DEFEATED BY THREE VOTES

House Bill 1119, authored by Rep. Jim Lucas with three Republican coauthors, would have let the Department of Correction choose between lethal injection and the firing squad regardless of drug availability, removing any prisoner election. Committee amendments stripped nitrogen hypoxia. It cleared committee eight to five on January 21, 2026 and was defeated on the House floor on January 28, 2026 by a vote of 48 to 47, three short of the constitutional majority required in the hundred-member chamber. Nineteen Republicans and twenty-eight Democrats voted no. Lucas did not call it back before the February 2 deadline, and a companion Senate measure stalled in committee. Reporting in June 2026 indicated that Indiana's newly constructed correctional complex had nonetheless been built with the capacity to accommodate firing squads.

Tennessee

STATUS: AUTHORIZED BY IMPLICATION, NEVER USED

Tennessee is rarely counted among the firing squad states, and it does not name the method. But Tenn. Code Ann. § 40-23-114(d) provides that if lethal injection or electrocution is held unconstitutional by the Tennessee Supreme Court or the United States Supreme Court, or if either court declines to review such a holding, all persons sentenced to death "shall be executed by any constitutional method of execution."[1] The same section provides that no death sentence shall be reduced because a method has been declared unconstitutional, and that the sentence remains in force until it can be carried out by some valid method.

The doors are not identical. Electrocution is the named alternative where lethal injection is merely unavailable; the open-ended clause in subsection (d) reaches further but requires an actual holding of unconstitutionality.[1] Tennessee's door is therefore narrower than Florida's, which opens on drug supply alone.

The state has already been asked to walk through it. In November 2018, days after Edmund Zagorski chose the electric chair over lethal injection and died in it, four Tennessee death row prisoners asked a federal court to let them be shot instead.[2] Roughly forty people are under sentence of death. No firing squad execution has been carried out.

NOTES

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North Carolina

STATUS: REACHABLE BY ADMINISTRATIVE SELECTION, NEVER USED

North Carolina has executed no one since 2006, held back by litigation over its protocol and by the Racial Justice Act. More than a hundred and twenty people are under sentence of death, the fifth-largest condemned population in the country. It belongs in this appendix because of what the General Assembly did in 2025.

Session Law 2025-93 rewrote G.S. 15-188. Subsection (a) keeps lethal injection as the mode "unless subsection (b) applies." Subsection (b) provides that on notice either that lethal injection has been declared unconstitutional by a North Carolina court or that it "is not available," the Secretary of the Department of Adult Correction must, within 120 days, "select another method of executing a death sentence that has been adopted by another state unless such method has been declared unconstitutional by the United States Supreme Court."[1] Subsection (c) gives the department 120 days to establish protocols and requires the Secretary to schedule an execution within 60 days of establishing them. Subsections (d) and (e) require reports to a legislative commission.

Read it again. No court need find lethal injection cruel. It need only be unavailable — the condition that has obtained across the country for a decade and that drove Idaho, South Carolina, and Mississippi to the rifle in the first place. And the field of replacements is not defined by North Carolina's own legislature. It is defined by whatever other states have adopted. Every legislature that adds the firing squad enlarges the menu from which a North Carolina cabinet secretary must choose. This is the contagion described at the end of this appendix, converted into positive law: a statute that delegates the question to a corrections official and then delegates the answer to other states.

No firing squad execution has been carried out in North Carolina, and none is imminent. The machinery is what matters here, not the schedule.

NOTES

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The Federal Government

STATUS: ADDED BY EXECUTIVE ACTION, APRIL 2026

Historical. The federal government has never executed anyone by firing squad.[1] It carried out thirteen executions in the closing months of the first Trump administration under a single-drug pentobarbital protocol adopted by Attorney General William Barr.[2] A moratorium was in place from 2021, and Attorney General Merrick Garland withdrew the pentobarbital protocol days before the second inauguration, citing concerns about unnecessary pain and suffering.[3] President Biden commuted thirty-seven of the forty federal death sentences, leaving three men on federal death row: Dylann Roof, Robert Bowers and Dzhokhar Tsarnaev.[3]

Legislative and regulatory. There is no statute here. The change is regulatory. In November 2020 the Department amended 28 C.F.R. Part 26 to expand permissible methods beyond lethal injection to any other manner prescribed by the law of the state in which the sentence was imposed, and to authorize the use of state facilities and personnel.[4] Part 26 further provides that where applicable law allows the prisoner to choose among manners of execution, the Director must notify him of that option.[5] That amendment is the hinge. Federal adoption of the firing squad required no act of Congress.

Contemporary. On his first day in office President Trump issued the executive order *Restoring the Death Penalty and Protecting Public Safety*.[6] On April 24, 2026 the Office of Legal Policy released *Restoring and*

Strengthening the Federal Death Penalty, prepared at the direction of former Attorney General Pamela Bondi, with sections on the firing squad, electrocution and lethal gas.[7] The same day the Department announced it had directed the Bureau of Prisons to reinstate the pentobarbital protocol, to expand it to include additional manners of execution such as the firing squad, and to examine relocating or expanding federal death row or building an additional execution facility to permit them.[8] Acting Attorney General Todd Blanche instructed BOP to modify the protocol to include additional constitutional manners of execution currently provided for by the law of certain states, citing drug availability.[9] The report argues the Biden-era review erred on both the science and the legal standard.[10] Further announced steps include a proposed rule barring capital clemency petitions until direct appeal and first collateral review are final, and a rule to streamline federal habeas review of state capital cases.[8] DOJ has authorized seeking death sentences against forty-four defendants.[10] The date is April 2026, not 2025.

NOTES

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4. Department of Justice, Request for Information Regarding the Manner of Execution Regulations (Sept. 27, 2022), describing the November 27, 2020 amendments to 28 C.F.R. Part 26. https://regulations.justia.com/regulations/fedreg/agencies/department-of-justice/2022/09/27

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The Mechanism to Watch

Alabama does not authorize the firing squad at all, and yet Jeffery Lee proposed it as his alternative to nitrogen and a federal court accepted it as feasible. That is the mechanism worth watching, and it does not require a legislature. Under *Glossip* and *Bucklew*, a prisoner challenging a method must plead an available alternative. Every ruling that accepts the firing squad as that alternative makes the next legislative adoption easier, and every adoption in turn makes the method easier to plead in the next case. The record traced in Chapter 15 is that loop running.

Appendix E

Glossary of Terms

* * *

Blood atonement. A nineteenth-century doctrine taught by some early leaders of the Church of Jesus Christ of Latter-day Saints, holding that certain sins were grave enough to require the shedding of the sinner's own blood in addition to Christ's atonement. Long repudiated by the modern LDS church, but historically linked to Utah's cultural preference for the firing squad over methods that do not spill blood.

Chapman Protocol. The original three-drug lethal injection formula devised by Oklahoma medical examiner Jay Chapman in 1977: a barbiturate, a paralytic agent, and a drug to stop the heart. The template for nearly all subsequent American lethal injection protocols.

Eighth Amendment. The provision of the U.S. Constitution prohibiting cruel and unusual punishments, the primary constitutional basis for challenges to specific methods of execution.

***Glossip* standard.* *The legal test established in* Glossip v. Gross* (2015), requiring a prisoner challenging an execution method to identify a known and available alternative method that would significantly reduce the risk of severe pain, and to show that the state's refusal to adopt it lacks a legitimate penological justification.

Judicial override. The practice, abolished in Alabama in 2017 but not made retroactive, by which a trial judge could impose a death sentence notwithstanding a jury's recommendation of life. Kenneth Smith was sentenced to death this way after a jury voted eleven to one for life.

Moral disengagement. A psychological concept developed by Albert Bandura and applied to execution personnel by Osofsky, Bandura, and Zimbardo, describing the cognitive strategies people use to distance themselves from the moral weight of harmful acts they nonetheless perform. Diffusion of responsibility across a team is among these strategies, which is what the historical blank round was designed to supply.

Nitrogen hypoxia. An execution method in which pure nitrogen gas replaces breathable air in a mask fitted over the condemned person's face, causing death through oxygen deprivation. First used by Alabama on Kenneth Smith in January 2024.

Pentobarbital. A barbiturate that became the standard lethal injection drug after European manufacturers restricted export of the older three-drug protocol's components. Subject to its own supply shortages as manufacturers have increasingly refused to sell it for use in executions.

POST certification. Peace Officer Standards and Training certification, the credentialing requirement Idaho imposes on law enforcement officers seeking to serve on its firing squad.

Ramirez* right. *Shorthand used here for the right established in* Ramirez v. Collier* (2022): a condemned person's right under federal religious liberty law to have a spiritual advisor present, praying audibly and, where requested, laying hands on him, during his execution.

Shield law. A statute, such as those enacted by South Carolina and Idaho, protecting the identities of execution team members, drug suppliers, or other participants from public disclosure. Idaho's 2022 secrecy law withholds such information from the courts as well as the public; House Bill 803 (2026) extended the protection further and exempted execution procedures from Administrative Procedure Act review.

Appendix F

The International Context

* * *

Idaho's turn to the firing squad, and the American firing squad's spread to other states and to federal policy, is easy to read as a purely domestic story. It is worth placing briefly against the global picture, because the international context sharpens rather than softens the argument.

The global trend is toward abolition, not expansion

When Amnesty International began its work against the death penalty in 1977, only sixteen countries had abolished it in law or practice. By the end of 2025 that number had risen to 113, with more than two-thirds of the world's countries now abolitionist in law or in practice.[1] The Council of Europe's Protocol No. 6, adopted in 1983, prohibits capital punishment in peacetime across its signatory states, and Protocol No. 13, adopted in 2002, extended that prohibition to wartime, effectively eliminating every method of execution, firing squads included, across the European continent with the sole exception of Belarus.[2]

The countries that still use the method are not a flattering cohort

Contemporary use of the firing squad is concentrated in North Korea, where it has been documented for offenses including the unauthorized viewing of foreign media; China, where it remains available primarily for military offenses; Iran, where shooting is used alongside hanging within a system that executed at least 2,159 people in 2025, its highest recorded total since 1981; and Belarus, the only country in Europe that retains capital punishment at all, where the Soviet-era practice of a single executioner firing at close range remains standard, though 2025 was the first year since 1994 in which Amnesty recorded no new Belarusian death sentences or executions.[3] The United States, and specifically the five states profiled here together with Florida's open-ended authorization discussed in Chapter 15, is the only developed democracy currently expanding rather than retreating from this method.

2025 was a record year for executions, and the United States was part of the surge

Amnesty International recorded 2,707 executions across seventeen countries in 2025, the highest figure it has recorded since 1981 and an increase of seventy-eight percent over the 1,518 executions recorded in 2024. That total excludes the thousands of executions Amnesty believes are carried out annually in China, which remains the world's leading executioner and does not publish figures. Iran accounted for the bulk of the increase, and Saudi Arabia carried out at least 356.[4] The United States carried out forty-seven executions in 2025, up from twenty-five the year before and the highest American total since 2009, an increase driven overwhelmingly by Florida's nineteen.[5] Idaho's transition to the firing squad, and the federal Department of Justice's April 2026 embrace of the same method, are not occurring against a backdrop of declining American reliance on capital punishment. They are occurring during the steepest increase in American execution activity in more than a decade and a half.

No binding international authority requires the United States to change course

The International Covenant on Civil and Political Rights, to which the United States is a party, protects the right to life and directs that capital punishment, where retained, be limited to the most serious crimes.[6] The United States is not a party to the optional protocol that would bind it to abolish the practice outright, and nothing in international law currently requires Idaho, South Carolina, or the federal government to abandon the firing squad. I raise the international picture not because it carries direct legal force over the arguments in the preceding chapters, but because it supplies a useful check on any assumption that Idaho's choice reflects an emerging global consensus about how to modernize capital punishment. It does not. It reflects a choice, made by one of a shrinking number of retentionist democracies, to move in the opposite direction from nearly everywhere else in the developed world.

Notes

1. Amnesty International, *Death Sentences and Executions 2025* (2026); Amnesty International UK, "Death penalty report 2025" (noting that the number of abolitionist countries had risen to 113 by the end of 2025).

2. Council of Europe, Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (1983); Protocol No. 13 concerning the Abolition of the Death Penalty in All Circumstances (2002).

3. Amnesty International, *Death Sentences and Executions 2025* (2026); Cornell Center on the Death Penalty Worldwide, country profiles for Belarus, China, Iran, and North Korea.

4. Amnesty International, *Death Sentences and Executions 2025* (2026); Amnesty International, "Executions surge to highest recorded figure in 44 years," May 2026.

5. Amnesty International, *Death Sentences and Executions 2025* (2026); Death Penalty Information Center, "The Death Penalty in 2025" year-end report.

6. International Covenant on Civil and Political Rights, art. 6; UN Office of the High Commissioner for Human Rights, "Alarming trends in executions in 2025 raise serious human rights concerns," January 2026.

APPENDIX G

In Their Own Words

* * *

The following statements are collected here for ease of reference. Most are quoted and sourced in the body at the chapters indicated; where a statement appears only here, its source is given with the quotation.

Representative Bruce Skaug (R-Nampa), chief sponsor of House Bill 37: "We needed something that was sure and humane, and firing squad is humane because it is sudden, it is quick and it is certain." And, to a House committee in February 2025: "At first when you hear firing squad, if you're not familiar with the history, you think 'well that sounds barbaric' is what I've heard from some. It is certain. It is quick. And it brings justice for the victims and their families in a more expeditious manner than other types." (Chapter 3)

Senator Dan Foreman (R-Viola), a veteran and retired police officer, opposing House Bill 37: "The claims that it's instantaneous. Well, yes, sometimes it is, sometimes it is not. And if you've ever seen that, I think you would change your mind on how you're about to vote." (Chapter 3)

Senate Minority Leader Melissa Wintrow (D-Boise): "It's barbaric, and it unfortunately puts the optics of Idaho in a place that I don't think we care to be." (Chapters 3, 13)

Governor Brad Little, on signing House Bill 37: "I have long made clear my support of capital punishment. My signing of this bill is consistent with my support of the Idaho Legislature's actions in setting the policies around methods of execution in the state of Idaho." (Chapter 3)

IDOC Director Josh Tewalt, following Thomas Creech's failed execution: "While the execution of Thomas Eugene Creech did not proceed, the process worked as intended. ... Some are characterizing today's events as a failure, but the opposite is true. The process worked to prevent a failure, and I think that's an important distinction." (Chapter 2)

Federal Defender Services of Idaho, on Creech's second death warrant: "Mr. Creech has spent more than 50 years in prison and is now suffering from significant mental health issues because of the trauma he was subjected to when the state failed to execute him." (Chapter 2)

Robin Maher, Executive Director, Death Penalty Information Center: "Every new execution method in history has been introduced with the promise that it will be foolproof and 'more humane' than the previous method. Unfortunately, those promises have always been broken." On Idaho specifically: the state has "invested more than a million taxpayer dollars to implement a firing squad — a method of execution that has already proven to be as flawed as any other." And on the cost of capital prosecution: "As soon as the prosecutor decides to seek death, the price tag goes up." (Chapters 3, 13, 16)

David Weiss, attorney for Mikal Mahdi: "It's not fully clear what happened. Did one of the gunmen not fire that one? Did their gun get jammed? Did they miss? We just have no idea at this point." (Chapter 6)

ACLU of Idaho: "To be clear, we at the ACLU of Idaho oppose all executions; there is no method that does not impose an intolerably high risk of cruel and unusual punishment." (Chapter 3)

Meredith Barnett, daughter of Captain James Myers: "It's difficult to talk about taking someone else's life, but I do feel like that's justice." (Chapter 10)

IDOC Director Bree Derrick, on House Bill 803: The bill was about "not wanting folks — you know, the public or others — to weigh in on rulemaking related to execution procedures, specifically." (Chapter 13)

Justice Sonia Sotomayor, dissenting in Arthur v. Dunn (2017), joined by Justice Breyer: "In addition to being near instant, death by shooting may also be comparatively painless." And: "What cruel irony that the method that appears most humane may turn out to be our most cruel experiment yet." (Chapter 17)

Justice Sonia Sotomayor, dissenting from the denial of a stay in Boyd v. Hamm (2025), joined by Justices Kagan and Jackson: "Boyd asks for the barest form of mercy: to die by firing squad, which would kill him in seconds, rather than by a torturous suffocation lasting up to four minutes. The Constitution would grant him that grace. My colleagues do not." (Chapters 12, 17)

Judge Emily C. Marks, enjoining Alabama's nitrogen protocol in Jeffery Lee's case (2026): "Were Alabama to adopt firing squad as a method of execution, that method would likely be challenged as well. Indeed, there is likely no method — no matter how humane — that would be immune to constitutional challenge. But the Constitution does not guarantee a painless death, and human life cannot be purposefully extinguished without some risk of pain. The Court, the condemned, and the State must all confront that sobering reality." (Chapter 14)

U.S. Department of Justice, Restoring and Strengthening the Federal Death Penalty (2026): Lethal injection "has faced repeated and continuing legal challenges," and "anti-death penalty activists have waged a public campaign against providers of lethal injection drugs." The Bureau of Prisons "should follow suit" and modify its execution protocol "to include additional, constitutional manners of execution." (Chapter 14)

Anthony Boyd, in a recorded message to Governor Kay Ivey the day before his execution: "Before an innocent man is executed, come sit down with me and have a conversation with the guy you deemed one of the worst of the worst." (Chapter 12)

APPENDIX H

Religious Liberty and the Firing Squad

* * *

There is a hand reaching toward a dying man. There is a red circle painted over his heart. The Constitution protects the first. The state requires the second. The two cannot occupy the same space.

In 2022, the Supreme Court held that a condemned man has the right to feel his pastor's hand as he dies. In *Ramirez v. Collier*, the Court ruled eight to one that Texas could not bar a spiritual advisor from laying hands on the prisoner and praying aloud in the execution chamber. The ruling did not tell Texas how to kill John Henry Ramirez. It told Texas that however he was killed, the hand and the prayer had to be there at the end. What the Court protected was older than the Republic...the accompaniment of the dying by the ordained, the sacrament of presence at the threshold of death.

A method of execution can be built to make that sacrament impossible. Strap a man to a chair. Fix a target over his heart. Set three rifles fifteen feet away. No hand can rest where the bullets are aimed, because the hand and the target cannot share the chest. The act the Court protected and the method the state has chosen are not merely in

tension. They are structurally incompatible. One requires touch at the moment of death. The other forbids it.

That conflict has never reached the Supreme Court because no state had ever made the firing squad its primary means of execution. Idaho has now done so.

This is not another argument that the firing squad is cruel. It is an argument that the firing squad, as designed, makes it impossible for the state to honor a religious practice the Supreme Court has already protected.

Where the Hand Cannot Reach

Consider what the Court blessed, and then what the firing squad does. Under the Texas protocol, the advisor stood three feet from the gurney. The accommodation *Ramirez* required was small...step closer, extend an arm, touch the body away from the intravenous line. The sacrament survived because the method left room for it.

The firing squad leaves no room. When South Carolina shot Brad Sigmon in March 2025, the first firing-squad execution in the nation in fifteen years, the protocol strapped him to a chair by the head, chest, arms and ankles. It hooded him. It fixed a white target with a red bullseye over his heart. Three shooters fired through a slot in a wall fifteen feet away. His spiritual advisor could not stand beside him. The advisor was outside the chamber, unable to cross to him, unable to lay a hand on him. At the moment of death, Sigmon was untouched and alone. The state had designed a method of execution that structurally excludes the sacrament of accompaniment.

Imagine the final seconds. The pastor who has prayed with this man for months cannot take the last step toward him. The rifles require distance. The chamber requires separation. The sacrament the Court protected does not disappear because the minister refuses to come. It disappears because the architecture of the execution forbids him.

That is not a restriction on the sacrament. It is its elimination. The distinction is everything. *Ramirez* answered restriction. Volume can be lowered. Prayer can pause while a warrant is read. Proximity can shift by inches. The firing squad offers no such dial. It does not quiet the prayer or move the hand. It removes the hand entirely, at the one instant the hand means everything.

Not Cruelty

The instinct is to call this cruelty and reach for the Eighth Amendment. Resist it...not because method challenges fail but because of how the last one succeeded. In June 2026, a federal court held for the first time in the modern era that a method of execution is unconstitutionally cruel, enjoining Alabama's nitrogen protocol after a full trial. *Lee* did what no modern method-of-execution case had done. It won. But in winning, it elevated the firing squad into the constitutional benchmark against which every other method is measured. To strike nitrogen the court had to find a gentler alternative. The alternative the prisoner named was the firing squad, which the court found feasible and all but painless.

So the firing squad now sits at the humane end of the Eighth Amendment's spectrum. Attack it there and you must name something gentler still...nitrogen, just condemned as cruel, or lethal injection, whose failures are the reason these men were shot instead. The alternative-method rule that freed Jeffery Lee closes like a trap on anyone who turns the rifles around. On the question of pain, the firing squad is now the method courts trust. One axis, however, exposes a vulnerability the Eighth Amendment does not. It is not cruelty. It is that the sacrament cannot coexist with the method.

What the Law Requires

Once the argument leaves the Eighth Amendment, the governing law

changes as well. For prisoners, the vehicle is the Religious Land Use and Institutionalized Persons Act. Its command is plain. RLUIPA forbids a government from imposing a "substantial burden" on an inmate's religious exercise unless it proves that the burden is "the least restrictive means" of furthering a "compelling governmental interest." The Court calls that standard exceptionally demanding. The burden sits on the state.

Here the burden is not close. Accompaniment at the moment of death is a protected exercise...*Ramirez* settled that. The firing squad does not merely burden it. The state has designed a method of execution that structurally excludes the sacrament. The state's easy escape is already shut. It will say the pastor prayed with the condemned for hours beforehand. The law forecloses the answer. The question is whether the specific exercise is burdened, not whether the prisoner had some other outlet for his faith. Accompaniment at the threshold of death is the exercise. Accompaniment an hour earlier in a holding cell is a different one.

Everything then turns on how the state's interest is named. The compelling interest is carrying out the lawful sentence of death. It is not carrying out that sentence by firing squad. Let the state define its interest as killing this man by this method and strict scrutiny collapses into a circle. Named honestly, the interest is the death of the condemned pursuant to judgment...the method is only a means. *Ramirez* granted the state's real concerns: security in the chamber, the prevention of suffering, the victim family's peace. None requires a firing squad. Each is served as well by a method that lets the pastor remain.

The least-restrictive-means test does the rest. The state must prove no gentler method of carrying out the sentence exists. It cannot, wherever another lawful method lets the advisor touch the condemned as he dies. Lethal injection, accompanied as in *Ramirez*, does precisely that. Where injection is available and preserves the sacrament, the firing squad, which destroys it, is not the least restrictive means. The argument never asks a court to call the firing squad cruel. It asks one

thing only. When the state holds two lawful ways to the same end and one destroys a protected sacrament while the other preserves it, the law requires the one that preserves it.

The statutory argument does not stand alone. It rests upon a constitutional tradition even older than RLUIPA itself. The presence of clergy at the scaffold predates the founding. A state that keeps a gentler method in reserve while refusing to use it is not acting under a neutral rule of general application.

Before the Chamber

Every one of these moves is available wherever the firing squad is used. In most places the state has a ready answer: the condemned chose the method and cannot complain that it burdens his faith. Idaho has taken that answer away. Its 2025 law made the firing squad the primary method as of July 2026...the first in the nation...and kept lethal injection only as the fallback when the firing squad is not possible. The state imposes the rifles, not the prisoner. It cannot say he chose what it forced on him. And the gentler alternative is neither speculative nor contested. It is written into the same statute. The two defenses that would shield the firing squad elsewhere are pulled down by Idaho's own law.

Idaho is the cleanest case. It is not the only one. Wherever the state shoots a man to death, this claim reaches the one weakness the method cannot cure. It should be raised as a matter of course...a baseline of capital appeals, not an afterthought sprung too late.

South Carolina shows the cost of leaving it unraised. When the state shot Brad Sigmon, his lawyers fought valiantly. But the religious liberty argument was never brought.

Whether that argument would ultimately have prevailed, it was never presented. The one constitutional theory aimed directly at the firing squad's unique weakness was left unexplored. Sigmon's case shows the loss most plainly. He was a professed convert who carried his

faith to his last words. His spiritual advisor was present to the end and still could not be in the chamber, could not reach him, could not lay a hand on him as he died. The sacrament the Court had protected was his to claim. The claim was never made.

The argument has real vulnerabilities, and candor about them is part of its strength. A court may say *Ramirez* ordered an accommodation, not a change of method...that it protects exercise around an execution, not a veto over how the state kills. The answer is to seek an accommodation, not an abolition. The prisoner does not demand the end of the firing squad. He asks only that the state use one of its own lawful methods, one that permits the protected exercise. When the state itself keeps such a method available, strict scrutiny requires an explanation for choosing the one that destroys the sacrament. The state may also offer to let the pastor touch the condemned until the last second, then withdraw behind the barrier. But *Ramirez*'s carve-outs interrupted an exercise that continued through death. Here the withdrawal is total and permanent at the instant that matters. A silence while a warrant is read is a modulation. Emptying the room of the pastor's hands so the body can be fired upon is elimination. An accommodation that leaves a man dying untouched has not cured the burden. It has renamed it.

So the argument ends where the next execution begins. There is a chamber in Idaho with a chair, a wall and a slot for rifles. Eight men wait on its death row. One of them, Thomas Creech, the state strapped down already and could not kill him. No warrant has yet issued under the new law. That silence is the whole of the opportunity.

Soon enough a man will be moved to that chair and a target fixed over his heart. Whether a hand rests on him at the end will not be settled by the Constitution, which already prefers the hand. It will be settled by whether his lawyers ask the courts, while there is still time, the question the firing squad cannot survive: How does the state carry out an execution designed to exclude the sacrament of the dying?

There is a hand reaching toward a dying man. There is a red circle over his heart. The Constitution already chose the hand. Idaho chose the target. A government may claim the authority to take a life. It has no authority to design death so that the last constitutionally protected act of faith becomes physically impossible.

This essay first appeared on the Execution Intervention Project's Substack under the title "Idaho: Don't Repeat South Carolina's Legal Oversight of Religious Liberty on Firing Squads." It is reprinted here without change.

About the Author

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The Rev. Dr. Jeff Hood is a Catholic Priest (Old Catholic), nationally recognized theologian, and founder of the Execution Intervention Project — the nation's leading nonprofit combining activism against death sentences, spiritual accompaniment, abolitionist thought development, theological education and consistent public engagement to serve people on death row. As a spiritual advisor to death row inmates nationwide, he has accompanied thirteen men to their executions, including the first and eighth nitrogen hypoxia executions. Widely regarded as the leading spiritual voice on the death penalty, his work has been profiled in outlets ranging from The New York Times to a Rolling Stone documentary, *The Spiritual Advisor*. For his work to end nitrogen executions, he was nominated for the 2025 Nobel Peace Prize.

About the Execution Intervention Project

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The Execution Intervention Project is a 501(c)(3) nonprofit that stands with the people this country has condemned. It accompanies the condemned through their final days and, where the law permits, into the execution chamber itself. It connects people on death row with correspondents on the outside, because a letter is often the last thread someone has. It intervenes directly in active cases, supports the families of the condemned and the families of victims, and presses the argument publicly through writing, teaching, film, and testimony. Everything in this book has grown out of such work: the countless hours spent sitting with men in their last days, the autopsy records pried loose from unwilling states, the accounts carried out of rooms the public is not allowed to enter. The Project is sustained entirely by ordinary people giving what they can, and it takes on the cases, situations and people that no one else will.

executionintervention.org